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CONFIDENTIAL

H.Q.C. 55-B-3585

DEPARTMENT OF NATIONAL DEFENCE — OTTAWA, CANADA

CROSS REFERENCE

SUBJECT DISTRICT COURT-MARTIAL

BOYER, MARCEL SD.61589 CQMS.

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
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					JAG B NEW FILE CR 19-5-49		
JUN 29 1949	28/6/49	PA	KKS		D Admin Donate to PA		25/5/49

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H.Q.C. 55-B-3585

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices whenever it is needed.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All enquiries should bear the official file number.

PASS THIS FILE IN ENVELO

HQC 55-B-3585 (JAG/C)

XXXXX
Office of the Judge Advocate General

25 May 49

Headquarters, Quebec Command,
3530 Atwater Avenue,
Montreal, Que.

District Court-Martial
SD.61589 CQMS Marcel Boyer

Receipt is acknowledged of your QC. SD-61589 (J) dated 18 May 49, enclosing proceedings of the m/n District Court-Martial.

2. These proceedings have been entered in our records as No. 47051 under to-day's date.

(W.M.W. Shaw) Lt.-Col.
for Judge Advocate General

WMWS/BR

DIRECTORATE OF ADMINISTRATION
ARMY
MAY 26 1949
OTTAWA
CANADA

H.Q. C.55-B-3585
M.D.

MEMORANDUM - DISTRICT COURT-MARTIAL

No. SD 61589 Name BOYER, Marcel

Rank CQMS Unit No 4 Section A & T Staff

Charge AA 12(1) - Deserting His Majesty's Service - absent from 0900 hrs 2 Mar 49 to 1600 hrs 6 Apr 49 (Apprehended)

Date of Crime 2 March 1949

Date of Arrest 6 April 1949 Charge Signed 19 April 1949

Orders for D.C.M. 20 April 1949

Place and Date of Trial Montreal, Quebec, 26 April 1949

Sentence To Be Reduced To The Ranks

Date of Confirmation 5 May 1949

Date of Promulgation 6 May 1949

Entered in Records of J.A.G. as No. 47051

Date 25 May 1949

MEMO Accused found GUILTY of Absence Without Leave on first charge.

Recorded 27 May 49 1600 10 adm.

W M W Shaw
Capt

for Judge Advocate-General

CONFIDENTIAL

IN REPLY PLEASE QUOTE No. QC. SD-61589 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

MONTREAL, Que.,
18 May 1949.

REGISTERED

Judge Advocate-General,
Department of National Defence,
Military Stores Bldg.,
OTTAWA, Ont.

Referred to JA-Z
MAY 19 1949
File No. C.55-B-3585
Card to

District Court-Martial
SD-61589, CQMS Marcel Boyer, RCIC,
No. 4 Sec A & T Staff CA (AF)

Herewith the proceedings of the m/n Court-Martial forwarded for safe custody.

2. May this HQ be informed of the number of registration, please.

3. Action has been taken pursuant to C.A.O. 62-3.

Inc/

(R.O.G. MORTON) Major-Gen.,
General Officer Commanding,
Quebec Command.

NAT. DEF. R. 440
3000M 12 43 3203
H.Q. 1772-39-767

A

FORM OF PROCEEDINGS FOR DISTRICT COURT-MARTIAL

Proceedings of a District Court-Martial held at HQ Quebec Command, on Tuesday the 26th day of April 1949 by order of Colonel M.L. de ROME, Officer i/c of Administration, HQ Quebec Command, CA (AF)

dated the 20th day of April 1949.

PRESIDENT

ZP-1371, Maj P.E. Amyot, RC Sigs,
HQ Quebec Command, CA (AF)

MEMBERS

ZE-256, Capt. L.P. Laplante, RCA,
HQ Quebec Command, CA (AF)

ZD-2164, Capt. J.M. Leblanc, RCIC,
No. 4 Section A & T Staff, CA (AF)

ZC-1989, Maj. G.A.M. Nantel, Gen. List,
AJAG., HQ Quebec Command, CA (AF) Judge-Advocate.

Trial of SD-61589, CQMS Marcel BOYER, RCIC,
No. 4 Section A & T Staff, CA (AF)

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

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

The accused is brought before the Court.

Prosecutor: ZE-2015, Capt. M.A. Cardinal, RCIC,
HQ Quebec Command, CA (AF)

Defending Officer: ZK-231, Capt. P.W. Ayriss, RCAC,
No. 5 Sec A & T Staff, CA (AF)

At 1000 hours, the Trial commences.

The order convening the Court is read, and is marked "X", signed by the President, and attached, and they severally answer to their names.

Q.1-Question by the President — Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

A.1-Answer by the accused — No, Sir.

---

* I have satisfied myself that none of the officers detailed as members of this Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the charge before the Court-Martial.

Paul E. Amyot
President/DCM

B

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

Q.2 Do you object to Miss Flore Turcotte, civil servant and SB-119500 Cpl. C.G. Eagles, RCASC, HQ Quebec Command, CA(AF) acting as shorthand writers?

A.2 No, Sir.

Miss Flore Turcotte and SB-119500 Cpl. C.G. Eagles, are duly sworn as shorthand writers.

CHARGE SHEET

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

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

Q.3 Is that your number, rank, name and unit?

A.3 Yes, Sir.

Q.4 Are you guilty or not guilty of the charge against you, which you have heard read?

A.4 Not guilty, Sir.

"B-2"

Paul E. Hayot
Pres DCM

CHARGE SHEET

The accused, SD-61589, CQMS Marcel BOYER, RCIC, No. 4 Section A & T Staff, CA (AF) attached for duty to Les Fusiliers de Sherbrooke, CA (RF) a soldier of the Canadian Army (Active Force) is charged with:

CHARGE
Sec. 12(1)
Army Act

DESERTING HIS MAJESTY'S SERVICE

in that he

at Sherbrooke, Que., at 0900 hours, on 2 Mar 49, absented himself without leave from his place of duty with Les Fusiliers de Sherbrooke CA (RF) until apprehended at Quebec, P.Q., by the Military Authorities at 1600 hours on 6 April 1949, properly dressed.

MONTREAL, Que.,
19 Apr 1949.

(F. de S. ROBERT) Major,
Offr designated to command
& administer No. 4 Section
A & T Staff, CA (AF)

To be tried by District Court-Martial.

MONTREAL, Que.,
21 Apr 1949

(M.L. de ROME) Colonel,
Officer i/c of Administration,
HQ Quebec Command, CA (AF)

PROCEEDINGS ON PLEA OF NOT GUILTY

Q.5 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?

A.5 No, Sir.

The Prosecutor does not wish to make an opening address.

The Prosecutor proceeds to call witnesses.

First witness for the Prosecution — ZD-2532, Capt. M. Perusse, No. 4 Section A & T Staff, attached to Les Fusiliers de Sherbrooke, being duly sworn is examined by the Prosecutor.

Q.6 Will you please give to the Court, your number, rank, name and appointment?

A.6 ZD-2532, Capt. M. Perusse, No. 4 Section A & T Staff, attached to Les Fusiliers de Sherbrooke.

Q.7 Capt. Perusse, do you know SD-61589, CQMS Boyer?

A.7 I do.

Q.8 Do you see him anywhere in this Court?

A.8 Yes, right here (The witness points the accused)

Q.9 Could you explain to the Court what you know in relation to an alleged charge of desertion, in the case of CQMS Boyer?

A.9 On 26 Feb 49, at about 1100 hours, I received a telephone call from CQMS Boyer who was then calling from his home in Montreal. CQMS Boyer was telling me at the phone, that he had just come back from Winter Training School, Valcartier, that he was in Montreal and he was asking me if it was all right for him to report on Monday, 28 Feb 49. I told him it was all right. On 28 Feb 49, in the morning, CQMS Boyer was not back in Sherbrooke and the Officer Commanding Les Fusiliers de Sherbrooke received a letter from the Offr Commanding No. 4 Section A & T Staff with the instructions that CQMS Boyer was to report to Montreal to Major F de S Robert, Officer Commanding No. 4 Section A & T Staff, on 28 Feb 49. I called CQMS Boyer at his home and repeated those instructions to him and sent him the warrant, which was in the morning mail for him. On 3 Mar 49 as I had not heard from CQMS Boyer, I telephoned Major F de S Robert, Offr Commanding No. 4 Section A & T Staff to ask him if he had given instructions for CQMS Boyer to remain in Montreal, and I told Major Robert that CQMS Boyer had not reported in Sherbrooke. I have never seen CQMS Boyer in Sherbrooke after that.

Q.10 For the benefit of the Court, would you please repeat the date of this telephone conversation with Major Robert?

A.10 On 3 Mar 49, Sir.

Q.11 And you give evidence to the fact that you did not see CQMS Boyer after that date?

A.11 I do.

Q.12 When did you see him for the last time, before that date?

A.12 I would not remember exactly the date, but it was before he went to that Winter School in Valcartier.

Q.13 What were CQMS Boyer's responsibilities in relation to you at the Unit?

A.13 He was at Les Fusiliers de Sherbrooke as CQMS and Member of the A & T Staff.

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE THE WITNESS.

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

THE WITNESS WITHDRAWS.

Second witness for the Prosecution — ZD-129, Major F de S Robert, OC No. 4 Section A & T Staff and GSO II Quebec Command, RCIC, being duly sworn is examined by the Prosecutor:-

Q.14 Would you identify yourself to the Court, please?

A.14 I am ZD-129 Major François deSalle Robert, Officer Commanding No. 4 Sec A & T Staff and GSO II HQ Quebec Command.

Q.15 Your corps?

A.15 RCIC

Q.16 Major Robert, do you know SD-61589 CQMS Marcel Boyer?

A.16 I do.

Q.17 Do you see him anywhere in this Court?

A.17 Yes, on my right.

Q.18 Will you point to him, please?

A.18 Yes (The witness points to the accused)

Q.19 What is your relationship to CQMS Boyer in the Army?

A.19 I am his O.C.

Q.20 Do you know about an alleged charge of desertion in the case of CQMS Boyer?

A.20 I made out the charge.

Q.21 Will you please explain to the Court what you know in relation to the charge?

A.21 On March 1, 1949, at about 1200 hours Boyer, on my request, reported to my office after his course in

EQA Winter Training Course. After the interview I told him to report to Sherbrooke that night, that is all.

Q.22 Just to add some certainty to this, would you please repeat the date?

A.22 1st March 1949.

Q.23 And at that time you told CQMS Boyer to report to Sherbrooke that day?

A.23 On the same day.

Q.24 On the same day?

A.24 Yes, on the 1st March 49.

Q.25 The first of March?

A.25 That is right, that is his place where he has been appointed for duty to the Fusiliers de Sherbrooke and that is his home station.

Q.26 Do you remember when you saw CQMS Boyer after the 1st March 1949?

A.26 When he was apprehended in EQA after he was apprehended in EQA I saw him the following day when he was paraded.

Q.27 Do you remember the date?

A.27 No, not offhand.

Q.28 Well, was it in March?

A.28 It was after he had passed through orders as a deserter.

Q.29 Some time after the first of March 1949?

A.29 Yes.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q.30 Sir, how long have you been GSO II Quebec Command?

A.30 Since January 17th 1949.

Q.31 Have you any knowledge of CQMS Boyer prior to that time?

A.31 Do you mean personal knowledge?

Q.32 Yes, personal knowledge.

A.32 I knew of him and I knew him.

Q.33 Did you know him as a person or an individual? Not a name or number?

A.33 I knew him as an individual.

Q.34 What were your ralations with the accused? You were his OC from Jan 49. In what connection did you meet him? Was it in conference, an interview, or what?

A.34 Well, I knew him before as a member of the Reserve Fo Summer School in the summer of 1948 and in the fall o I was appointed OC temporarily and appointed finally January, so I met him on few occasions.

Q.35 Has CQMS Boyer appeared before you for any interviews?

A.35 Yes.

Q.36 And approximately how many times has he come before you for interview?

A.36 Well, I saw him here for interview on the 1st of March for the first time.

Q.37 That was the first interview you had?

A.37 No, No, I saw him othr times. I saw him in the office of Capt Lafleur this was previous to him proceeding on course, this Winter Warfare Course and I probably saw him once in 1949. I also saw him on my liaison visit through the Eastern townships in about September.

Q.38 On the various meetings did Boyer have any one request which he repeated constantly?

A.38 Yes, he had one request.

Q.39 What was that?

A.39 He asked to be transferred from Les Fusiliers de Sherbrooke to the Royal 22nd Regt and that is not the only request from Boyer, there are requests from other NCOs also.

Q.40 But it is CQMS Boyer with whom we are concerned. He requested a transfer to the Royal 22e Regt and what was his purpose?

A.40 He told me it was because he could not find quarters in Sherbrooke and wished to be posted to the Royal 22e Regt for he said, he had quarters in Quebec City.

Q.41 Have you any reason to doubt the fact he did not actually possess quarters in Quebec City?

A.41 I did not doubt him personally, but all men transferred to the Royal 22e Regt have not found quarters.

Q.42 You said you saw him several times, was this the only transfer he requested?

A.42 Offhand that is the only, there may have been others, I don't think so. I think it is the only one.

Q.43 Did CQMS Boyer any time, to your personal knowledge, request his discharge?

A.43 Yes he did. That was the time I saw him in the Administrative Officer's office before the proceeded to a course. He wished to purchase his discharge to become a salesman for a meat firm. I forget the name and, as O.C. I advised him the best plan for him was to remain in the Army and and I explained to him financially about the Army.

Q.44 Did it take a great deal of argument to convince him?

A.44 In my opinion not very much time.

Q.45 I don't want an opinion; did it take a few minutes, a half an bour, five minutes?

A.45 About five minutes.

Q.46 What was the purpose of the accused asking for a transfer? We realize that he claimed to have accommodation in Quebec City and that such and such a job was available to him or was there something else that would induce him to ask that?

A.46 On further inquiry by "A" Branch there were no vacancies in the Royal 22e Regt.

Q.47 How long did these inquiries take? How long would it be before the request was more or less closed?

A.47 This request was closed during his absence, I can't remember the date.

Q.48 But if there had been a vacancy in the Royal 22e Regt?

A.48 There had not been a vacancy for Boyer. He told us there was and we checked.

Q.49 You checked with whom?

A.49 "A" Branch. I deal with "A" Branch.

Q.50 Is it a fact Sir that your treatment of Boyer has been prejudiced by your relationship with him?

A.50 No. It is not a fact.

Q.51 As far as personal relations are concerned up until recently they have been quite good?

A.51 I can't see what you are aiming at.

Q.52 I am referring to likes and dislikes which are caused by the impact of facts. You might or might not dislike him?

A.52 My likes for him were to keep him in the Army, when he was interviewed before going on course. There was no dislikes for Boyer at any time whatever, or prejudiced.

Q.53 When did CQMS Boyer first appear before you on this charge?

A.53 The following day of his arrest, I was informed by the AQ of this Command that he had been arrested in Quebec City and I was told to have an escort meet Him at 25 COD where he would be placed under close arrest. I can't give the exact day but he was paraded before me on charge.

Q.54 Have you quite a few people paraded before you daily?

A.54 I have been having two parades daily since the other and himself have been under arrest. I just can't remember the date but it is on paper.

Q.55 Well, it is normal when a person goes up on charge to ask him if he has anything to say?

A.55 Definitely.

Q.56 You made such a request?

A.56 Definitely.

Q.57 The first time he appeared before you did you ask him if he had anything to say? What was his reply?

A.57 Nothing to say.

Q.58 I repeat that question. You asked him if he had anything to say and what was the reply?

A.58 Nothing to say.

Q.59 I submit, Sir, that his statement was "The same as the last six months my transfer or my discharge". "I don't want to stay in the Army, it has ruined my life already".

Q.60 What was your reply?

A.60 I said I knew of his case and, for that matter, a padre had also gone to his house. That is all.

Q.61 What was your reply to his statement?

A.61 I don't remember, although I might have inferred that he had accepted to remain in the Army.

Q.62 You did not state "you will get your discharge, it will cost you a lot of money and you know Boyer, we know your double life"?

A.62 I might have. I might have said that.

Q.63 Now, when Boyer came up the second time, again you asked him if he had anything to say or have you any complaints? On the second appearance of the accused did you ask him if he wished to see his wife?

A.63 Definitely. For information I asked him the first time also.

Q.64 Did you also add a question: "Do you want to see your wife? " and before he could have an opportunity to answer add the words "You are not interested in..." or "are you interested"?

Q.65 You cannot bring to your mind the exact words?

A.65 Well, if you let me answer the question. During the absance of Boyer, Mrs. Boyer phoned me on a few occasions and you also have the evidence in the files that they were not getting along very well together. When he was under arrest and paraded to me the first day I asked him if he cared to see his wife. His answer was "no".

Q.66 You did not put in any little clause immediately after your question?

A.66 I might have added something. I knew of the case. He did not seem interested and I, as his O.C., felt his wife should be helped and I got him to sign documents so that his wife could draw some Separated Family Allowance and Marriage allowance to help her out.

Q.67 When was this Separated Family Allowance application made?

A.67 It cannot be made until one week after his arrest, but

I was preparing the grounds for it. He was willing to accept and Mrs. Boyer called me again while he was under close arrest and she did not know he had been apprehended and that was at least four or five days after his arrest.

Q.68 You will admit then, Sir, that your alleged knowledge of Boyer's family have influenced you?

A.68 Have influenced me? In which way?

Q.69 Your judgment in this particular matter. Statements which you say you admit making?

A.69 How?

Q.70 From the statements that you appear to admit making, it would seem to be that you have let your judgment be interested in your knowledge of his family affairs and has effected your decisions?

A.70 What decisions?

Q.71 Your decisions in respect to his transfer?

A.71 Well, there are two points; first there was no vacancy at the Royal 22e Regt and secondly I was aware of the circumstances of his family and serious attempts were made to transfer him to Montreal by myself and for further facts see in his file a report signed by the Padre.

PROSECUTOR TO THE COURT

Will the Court request the presence of Major Robert further?

DEFENDING OFFICER TO THE PROSECUTOR

I may require him further.

THE PROSECUTOR DECLINES TO RE EXAMINE

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

THE WITNESS WITHDRAWS.

Third witness for the Prosecution — SD-109112, Sgt. Williams, J.B. "B Detachment" No. 6 Coy C Pro C, being duly sworn is examined by the Prosecutor:-

Q.72 Will you please give the Court your number, rank, name and appointment?

A.72 SD-109112, Sgt. Williams, J.B., B Detachment, No.6 Coy C Pro C.

Q.73 Do you know a CQMS by the name of Boyer?

A.73 Yes, Sir.

Q.74 Do you see him anywhere in this Court?

A.74 Yes, sir, on my right (the witness points to the accused)

C-15

Q.75 Could you explain to the Court, in your own words how and when you had the occasion, during the course of your duties, to come into contact with CQMS Boyer?

A.75 On 5 April 1949, I received a telephone call from the APM HQ Quebec Command. I received instructions to carry out investigation in the case of CQMS Boyer. During the investigation was carried out in Quebec City I contacted the subject and at 1600 hours, on 6 April 1949 I placed him under close arrest and took him into custody.

Q.76 When you say the subject, whom are you referring to?

A.76 CQMS Boyer, Sir.

Q.77 Where did you find CQMS Boyer?

A.77 In a house, a rooming house, at 437 St.John St., Quebec, Que.

Q.78 Did he surrender to you or did you apprehend him?

A.78 I apprehended him.

Q.79 After that, what did you do?

A.79 I escorted him to Montreal and turned him over to be placed on custody at No. 25 COD on the same date.

Q.80 I would ask you to repeat the date for the benefit of the Court?

A.80 I turned him over to the Guard Room in 25 COD at 2330 hours on 6 Apr 49.

Q.81 When did you apprehend him?

A.81 On the same day, in Quebec City at 1600 hours.

Q.82 How was he dressed?

A.82 He was dressed in military uniform.

Q.83 How did you identify CQMS Boyer?

A.83 I knew him, Sir.

THE DEFENDING OFFICER DECLINES TO RE-EXAMINE.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH THE R.P. 83 (B).

THE WITNESS WITHDRAWS.

Fourth witness for the Prosecution — ZE-373, Capt. J.Y. Theriault, No. 4 A & T Staff, being duly sworn is examined by the Prosecutor:-

Q.84 Would you please give to the Court your number, your name and your appointment?

A.84 ZE-373, Capt. J.Y. Theriault, No. 4 Section A & T Staff.

C-17

Q.85 Capt. Theriault, do you know CQMS Boyer?

A.85 Yes, Sir.

Q.86 Do you see him anywhere in this Court?

A.86 Yes, Sir.

Q.87 Will you point to him?

A.87 The witness points to the accused.

Q.88 Did you take the Summary of Evidence on CQMS Boyer?

R.88 Yes.

Q.89 What was it for?

A.89 For deserting His Majesty's Service

Q.90 I suppose at the Summary of Evidence you interviewed a few witnesses?

A.90 Yes, Sir.

Q.91 After you have interviewed witnesses, did you tell anything to the CQMS Boyer?

A.91 Yes, I read to him the warning.

JUDGE-ADVOCATE TO THE COURT

Before we go any further, it is my duty to tell the Defence what is going on. I can realize now that the Prosecutor is trying to introduce before the Court a statement made by the accused at the Summary of Evidence. This is what is called evidence on "voir-dire". The evidence which will take place now is this: the witness will not be called upon to give evidence on the statement itself, it will be up to the Prosecutor to show to the Court that the statement made by CQMS Boyer at the Summary of Evidence was voluntary. When the witness is through, you may cross-examine him, and may call the accused. He will not be questioned on evidence but on the circumstances surrounding the taking of the statement.

First witness on "voir-dire"

Q.92 Capt. Theriault, did you give this warning to the accused (presenting a sheet of paper to the witness) and if you did, will you please read to the Court the warning that you gave to the accused?

A.92 Yes, I did give this warning, Sir. (The witness reads the warning).

Q.93 Did you threaten CQMS Boyer?

A.93 No, Sir.

Q.94 Did you use force or violence in order to obtain a statement from him?

A.94 No, Sir.

Q.95 Before you took the statement, did you make sure the accused understood what was said to him?

A.95 Yes.

Q.96 Did he makd his statement on his own volition and of his own free will?

A.96 Yes

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE THE WITNESS.

PROSECUTOR TO THE COURT

Can I ask the witness to read the statement?

THE COURT TO THE PROSECUTOR

No, not right now.

The Defending Officer declares that he has not witness to give evidence on "voir-dire" and has no objection to the filing of the statement made by the accused.

The Court decides that the statement made by CQMS Boyer is admissible.

ZE-373 Capt. J.Y. Theriault is re-called and examined on the same oath by the Prosecutor:-

Q.97 What did CQMS Boyer answer to your warning?

A.97 "Yes, I want to make a statement".

Q.98 After you read the question to the accused?

A.98 After I read the question to the accused, he said: "Yes, I want to make a statement".

Q.99 Did you swear him yourself?

A.99 Yes.

PROSECUTOR TO THE COURT

Could I please ask the witness to read the present statement he took from the accused?

The witness reads the statement to the Court.

BY THE PROSECUTOR

Q.100 Were you a witness to this signature?

A.100 Yes, Sir.

Q.101 Did he sign before you?

A.101 Yes.

I hope it is in order to include the statement in the proceedings!

C-21

THE COURT TO THE PROSECUTOR

Ask the witness to produce this statement.

PROSECUTOR TO THE WITNESS

Q.102 Will you produce this statement to the Court?

A.102 Yes, Sir.

The Statement is signed by the President, marked as exhibit "G" and annexed to the proceedings.

THE DEFENDING OFFICER DECLINES TO RE-EXAMINE THE WITNESS.

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

THE WITNESS WITHDRAWS.

ADJOURNMENT AND REASSEMBLY

At 1200 hours on 26 April 1949, the Court adjourns until 1330 hours.

At 1330 hours on 26 Apr 49, the Court reassemble pursuant to adjournment; present the same members as at 1200 hours.

THE PROSECUTION IS CLOSED

DEFENCE

Q.103 to the accused Do you apply to give evidence yourself as a witness?

A.103 by the accused Yes, Sir.

Q.104 Do you intend to call any other witness in your Defence?

A.104 Yes, Sir.

Q.105 Is he a witness as to character only?

A.105 No, Sir.

R.P. 40 & 41 HAVE BEEN COMPLIED WITH.

First witness for the Defence

SD-615869, CQMS Marcel BOYER, RCIC, No. 4 Section A & T Staff, CA (AF), being duly sworn is examined by the Defending Officer:-

Q.106 S/Sgt Boyer, will you give the Court a "resume" of your military career, a brief description?

A.106 From the time I started joining the Army, Sir? Well, I joined the Army on the 29th September 1939, as a privat in the Fusiliers Mont-Royal attached to the QM Stores. They put me in the Quartermaster Stores in the FMR as a Cpl and from there on we moved to Valcartier in early Spring 1940 and then I was promoted to the rank of Sgt. to go to England to take a RQMS course in the Imperial School. After I passed my qualification I was posted to the 5th Brigade as a CQMS. From there on I went to the 5th. Recce sqn where I was attached as CQMS. After experience in the 5th Reccee, they decided to form all this squadron in the 8th Recce Regt. I was promoted to RQMS with the 8 Recce Regt. I went right through until the end of the war. I was still RQMS when I came back from overseas and after the battle of France I was decorated by General Montgomery by certificate of duty and then came back from overseas in July 1945. I had to get 90 days pre-discharge leave and the reason was to make up my mind if I would sign for interim force or go into civil life. On that 90 days leave I was offered to go back to Europe for UNRRA and accepted and was away for two more months, back in Holland. I came back in the month of December through New York USA and reported myself to No. 4 Depot in Longueuil where I signed for interim force.

Q.107 You mentioned that you received a recommendation from the Commander in Chief 21st Army Group. Is this a certified true copy of that?

A.107 Yes, Sir.

Q.108 Would you produce that to the Court, please?

A.108 Yes, Sir.

Certified true copy of a Certificate from Commander, 21st Army Group is read, signed by the President and attached to the proceedings. See document marked "H".

Q.109 You were RQMS of your Unit for how long?

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A.109 From 1940 to 1945, the only RQMS they had.

Q.110 Was your work satisfactory?

A.110 Yes, Sir.

Q.111 How can you prove that fact?

A.111 By a letter they gave to me from the OC Lt-Col Merner. He gave me the letter.

Q.112 Do you recognize this as a certified true copy of that letter?

A.112 Yes, that is right, Sir.

Q.113 Will you present it to the Court, please?

A.113 Yes, Sir.

Certified true copy of a letter dated 30 May 1945 and signed by Lt-Col Merner is read, signed by the Lt-Col Merner, is read, signed by the President and attached to the proceedings - see document "I".

Q.114 When did you rejoin the military forces?

A.114 I rejoined in December 1945 in St.Jerome.

Q.115 And where were you posted?

A.115 After that I was posted to FMR in Montreal as RQMS A & T Staff and following that I was with 16 Recce Regt in Bury.

Q.116 The 16th Recce Regt is where?

A.116 Bury, P.Q. 25 miles this side of Sherbrooke.

Q.117 Where had your home been established?

A.117 In Montreal.

Q.118 Did you move your wife to Bury?

A.118 Yes, I did.

Q.119 Was the move successful? Was your wife happy?

A.119 No, Sir.

Q.120 What action did you take?

A.120 Well, after the report I had from the doctor, after my wife was pregnant 3 times, I could not find any accommodation, I moved my wife at my expense back to Montreal.

Q.121 Before you moved your wife did you make any requests through official channels?

A.121 Yes, Sir. I asked for transfer through Major Leduc in Quebec to go back to Montreal.

Q.122 To whom did you make this request?

A.122 Major Leduc in Quebec.

Q.123 Do you recognize this letter as a facsimile as a true certified copy of that?

A.123 Yes, that is right, Sir.

Q.124 What is the substance of that letter?

A.124 The substance of that letter is my wife was sick at the time and could not live there at the time. So I had to transfer to EQA. They could not post me in Montreal. They offered me to go to the RCIC if I took down my crown.

Q.125 The substance of that letter itself. I just want you to confine yourself to that letter.

TO THE COURT

Would it be all right for him to look at that to refresh his memory.

THE COURT

Yes.

THE WITNESS ANSWERS:

A.125 This letter is asking that I be removed from Bury to Montreal on account of the health of my wife.

Certified true copy of letter dated 25 Mar 48 is signed by the President and attached to the proceedings. See document marked "J".

Q.126 Were you then transferred to Montreal?

A.126 No, Sir.

Q.127 Where were you sent?

A.127 To EQA. I asked to be sent to Montreal and the answer was the RCAC could not post me to Montreal due to the fact I was a WO II; I offered to drop my crown, so I could have a posting to Montreal. They posted me to Sherbrooke which is exactly 25 miles closer to Montreal.

Q.128 You had been promised if you reverted to the rank of CQMS you would have the posting to Montreal?

A.128 That is right, Sir.

Q.129 Were you able to obtain accommodation in Sherbrooke?

A.129 No, Sir.

Q.130 What was your next step in trying to get your family together?

A.130 The next step was I had an interview with Col. Turcot the OC Royal 22e Regt in Quebec, and he gave me a certain date to seemhim in Valcartier Summer Camp. Last fall I went to see him. He was willing to take me as CQMS in B Coy but told me to go through the right process for my transfer.

Q.131 Col. Turcot told you there was a vacancy for a CQMS in the Royal 22e Regt?

A.131 Yes, Sir.

Q.132 What steps were taken by HQ Quebec Command to move you?

A.132 No steps at all. They always kept saying we will see you in a couple of weeks.

Q.133 What steps did you take to bring this to the attention of HQ?

A.133 I wrote a letter to Major F de S Robert and at a visit in Sherbrooke I asked him what was the situation. I told him about my interview with Col. Turcot and he said I had to put a letter through HQ Quebec Command stating my interview with Col. Turcot, so I did.

Q.134 Do you recognize this letter as a facsimile, a true certified copyof that letter?

A.134 That is right, Sir.

Q.135 Will you present it to the Court, please?

A.135 Yes, Sir.

Certified true copy of said letter is signed by the President and attached to the poceedings. See document marked "K"

Q.136 Did the OC of the Reserve Force Unit to which you were attached agree with your transfer?

A.136 The O.C.? Yes Sir, correspondence went through on that matter that Col. Roy will let me go without replacement in order to straighten out my personal affairs. It costs too much to keep a house in Sherbrooke and one in Montreal.

Q.137 Do you recognize this letter as a facsimile, a certified true copy of letter signed by Col. Roy, and will you produce it?

A.137 Right, Sir.

Certified true copy of letter dated 1 Dec 48, signed by Lt-Col Roy, is signed by the President and attached to the proceedings. See document marked "L"

Q.138 When did you cease attempting to get a transfer?

A.138 I ceased, well I came back to see Major Robert at the beginning of Feb, before I was going to my Winter Course. I asked him for my transfer or a discharge. Before I went to my Winter Training Course in Valcartier and then I asked for my discharge also to Capt Lafleur and he called Maj Robert down to his office and then Major Robert came to his office and tried to talk me off taking my discharge by stating what money he earned himself and I earned myself and Capt Lafleur said after that, "If you want your discharge, there is no use for you to go on the Winter Training Course". My reply was if

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A.138 Contd I received my discharge I wanted to join in the Reserve Force to try to get a commission with them. So I did see no point for my not taking the course when it was available and came back to see him after the course to see about my discharge or transfer. During the time I was in Valcartier on that course I had a telegram if I wanted my discharge when there is just four days to go to finish the course, instead I asked him to send a telegram to Major Robert for an interview after the course was over and that is what I did on the 1 April 1949.

Q.139 During the period covered by the charge of desertion which has been laid against you how were you employed?

A.139 First I tried to get myself in the pickling business for I had some kind of experience and I did install myself on it by having my permit, registration and gave an order for goods in those days I was AWL.

Q.140 You mean that you had the license to operate, the license and registration of the Coy and all things whatever that go with it?

A.140 Yes, Sir.

Q.141 Do you recognize this as a facsimile, a certified true copy of your certificate of license?

A.141 That is right, Sir.

Q.142 Will you present it to the Court, please?

A.142 Yes, Sir.

Certified true copy of certificate of license, dated 23 Mar 1949 and signed by Mr. Eng. Bellay, Deputy Protonotary, is read and signed by the President and annexed to the proceedings. See document marked "M".

Q.143 What address did you give when registering your company?

A.143 1467 Joliette St., Montreal. Salome Industries Regd.

Q.144 What name didyou personally use?

A.144 My own name, Marcel Boyer.

Q.145 Who handled the registration for you?

A.145 A lawyer's office.

Q.146 Do you recognize this the original of the receipt for money paid to the lawyer for the registration of the Company? To whom is it made out?

A.146 To my name, Sir.

Q.147 Will you present it to the Court?

A.147 Yes, Sir.

Receipt (original) is read, signed by the President and annexed to the proceedings. See document marked "N".

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Q.148 What further steps did you take?

A.148 Well, I had to get all kinds of labels and stencils made and printed matter. I had them made and also I had to go in Quebec I had a contract for the food.

Q.149 Who printed the labels for you?

A.149 They were printed on Joliette Street a man by the name... I forget... I think it was Blais.

Q.150 Do you recognize this as a facsimile, a true copy of the receipt for printing of labels and posters?

A.150 Yes, Sir.

Q.151 Would you please present it to the Court?

A.151 Yes, Sir.

Certified true copy of receipt for printing of labels and posters, dated 23/3/49, signed J. Blais, is signed by the President and annexed to the proceedings. See document marked "N".

Q.152 Do you recognize this poster as a sample of what was to be printed by Mr. Blais and will you produce it to the Court?

A.152 Yes, Sir.

Poster, signed by the President is annexed to the proceedings. See document marked "P".

Q. 153 And advertising what Company?

A. 153 Salome Industries Regd.

Q. 154 And in what name did you carry out these transactions?

A. 154 In my own name.

Q. 155 What name did you use at the time of your desertion?

A. 155 My own name.

Q. 156 What address?

A. 156 1467 Joliette St.

Q. 157 What was your dress?

A. 157 Uniform all the time.

Q. 158 Did you understand the meaning of the charge desertion? Will you explain it to me?

A. 158 Well, desertion means when somebody goes away from the Army and he has no intention to come back.

Q. 159 That would apply to you. Would that description apply to you?

A. 159 No, Sir.

Q. 160 Why?

A. 160 Because I had no intention to desert the Army, the only intention I had because the Army could not satisfy me in my private lif, so I decided to organize myself to get a decent pay, to get a decent life for my family.

Q. 161 Who can prove that statement?

A. 161 You can ask my wife if you want, Sir.

Q. 162 In Court this morning Major Robert stated that no vacancy had existed in the Royal 22e Regt. Do you agree?

A. 162 No, Sir.

Q. 163 What do you base your disagreement on?

A. 163 I base it on, first, when I had an interview with Col Turcot and he is still waiting for me, and at the time I was AWL, I was in Quebec in order to contact a firm and I happened to meet in the Street the RSM of the Royal 22e Regt, RSM Hache and I said to him "what about that job, is it still open up there"? and the answer was "yes" it is still open", they are still waiting for me.

Q. 164 After your apprehension by the Provost in Quebec, when were you first arraigned before your OC?

A. 164 I was arraigned the next day on the 7th if I remember right, in the morning at 1100 hours.

Q. 165 What happened on this date, the 7 Apr 49?

A. 165 Well, I was brought in front of Major Robert, the OC 4 Section A&T Staff and he read to me the charge as laid down in front of this court and he asked me what I had to say. I told him the same I have been sayihg and asked you for the last six months "My transfer or my discharge".

Q. 166 What was his reply?

A. 166 It was I will have my discharge but it is going to cost me plenty of money. You know Boyer we know your double life.

Q. 167 When you were brought up on the 8th what transpired then?

A. 167 On the 8th April I was brought up in front of the OC Major Robert. He asked me if I had any complaints without reading the charge. He asked me if I wanted to see my wife and before I had the time to answer he turned around to me in French "vous n'êtes pas intéressé" before I had a chance to answer if I wanted to see my wife or not.

Q. 168 What was the relationship between yourself and Major Robert?

A. 168 He is my O.C., Sir.

Q. 169 What was your purpose in going to Quebec during the period of your alleged desertion?

A. 169 Well, I was in Quebec since the Monday because I had this contract to be signed by a firm to supply me with the canned meat. You have ham in cans, pork sausages in cans. The day I was apprehended was the day I finished my business in Quebec. Sgt. Williams happened to see me.

Q. 170 Did you intend to return?

A. 170 Yes, Sir. All the time. I told him at the time I was going to take the train the same night to get my civilian papers. I told Sgt. Williams he got me in the nick.

Q. 171 Do you consider that Major Robert has done all in his power to obtain a transfer for you?

A. 171 No, Sir.

Q. 172 What do you base that statement on?

A. 172 I base it on the fact that for six months I tried to get a transfer from Capt. Lafleur and Major Robert and they did not have a decent answer and I had to go back and tell my wife I would have a transfer. I never had one after I stated all my grievances to Capt Lafleur and Major Robert, they still have been making the hell out of it.

CROSS-EXAMINED BY THE PROSECUTOR

Q. 173 How old are you?

A. 173 35 years.

Q. 174 When were you attested in the Active Force?

A. 174 I was attested in the Active 1st Oct 46.

Q. 175 Did you sign a contract at that time?

A. 175 Yes, Sir.

Q. 176 For how long?

A. 176 Three years, Sir. It ends the 1st Oct coming.

Q. 177 You signed a three year contract terminating on 1st Oct 49?

A. 177 Yes, Sir.

Q. 178 Do you remember at the time if the attestion paper was read to you?

A. 178 Well, to tell you frankly the question of the attestation for being read, we all know it by heart, Sir.

Q. 179 And was it a sworn signature?

A. 179 Yes, Sir. It was.

Q. 180 Well, to refresh your memory in this form, in this statement: "I hereby engage to serve wherever I am required to and in any capacity for three years effect from 1 Oct 1946". That is rough, you remember that? What rank did you have then?

A. 180 WO II Sir.

Q. 181 In the Army, before you went on this Winter Training Course in Valcartier, what was your normal station?

A. 181 In Sherbrooke.

Q. 182 That is roughly 102 miles south east of Montreal?

A. 182 Yes, 100 - 102 miles.

Q. 183 What is your normal residence?

A. 183 1467 Joliette St., Montreal. I have lived there for the last 12 years.

Q. 184 So your place of duty was Sherbrooke?

A. 184 Right, Sir.

Q. 185 Now from the second of March 1949 until the 6th of April 1949, from 0900 hours 2 March 1949 until 1600 hours 6 April 49, were you at your normal place of duty in Sherbrooke?

A. 185 No, Sir.

Q. 186 You were not?

A. 186 No, Sir.

Q. 187 Did you, between these two dates, perform any military service?

A. 187 You mean the time I was AWL?

Q. 188 Yes. Did you, between the 2 Mar 49 and 6 Apr 49 perform any military duty?

A. 188 No, Sir.

Q. 189 You did not?

A. 189 No, Sir.

Q. 190 I would like to refer the attention of the Court to exhibit "M" all the time you were away you were wearing military uniform?

A. 190 Most of the time, Sir.

Q. 191 When you went to the Deputy Notary in Montreal, to register your firm, were you in uniform?

A. 191 No, Sir.

Q. 192 You gave your occupation as being a travelling salesman?

A. 192 That is right, Sir.

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Q.193 Is a travelling salesman a military occupation?

A.193 Well, Sir, to explain that...

Q.194 I would like the accused to answer my question first, and then clarify the matter. Is travalling salesman a military occupation?

A.194 No, Sir.

Q.195 What do you wish to say?

A.195 I wish to say that if you give yourself as a soldier, you have to state on which ground you were going to be. Besides that, you cannot give your occupation as military, there is no background.

Q.196 A travelling salesman is not a military occupation?

A.196 That is right, Sir.

Q.197 You have produced to the Court, Boyer,a number of documents relating to this business of yours. These exhibits stating your business was registered in Montreal here, before the Protonotary. You also stated that you went to Quebec City to close your business or to make a business deal. Have you any evidence to substantiate the fact that you were in Quebec to make a business deal?

A.197 I cannot show any evidence, it happens to be food and food cannot be delivered until I am free to handle it.

Q.198 You have produced documentary evidence that you registered the business in Montreal, but you have not produced any evidence to substantiate the fact that you were in Quebec City to close a business deal?

A.198 No, I cannot, Sir, because it is food.

Q.199 When you were arrested by Sgt. Williams, of the M Police where were you?

A.199 I was in a room, in Quebec City at 437 St.Jean St.

Q. 200 Quebec City is roughly 170 miles East of Montreal?

A. 200 Yes, Sir.

RE-EXAMINED BY THE DEFENDING OFFICER

Q.201 I have one question. Will you tell the Court anything you know concerning a man in Quebec City whom you allege you went to see in business?

A.201 I saw Mr. Leo Rochette who is the owner of that company "Charcuterie Hygienique" and dealt with him. I have a contract regarding the supply of all the cooked meat I need in Montreal, here, as soon as I am ready to start my pickling business. I told him that I could not receive the first order before I go back to Montreal and have my discharge from the Army, but we did agree on the price the whole of it of what it is going to cost for the meat.

Q.202 Have you tried to contact him since?

A.202 I contacted him last Sunday. I telephoned and asked him to be here this morning. He told me he will be down but I don't see him around yet.

THE PROSECUTOR DECLINES TO CROSS-EXAMINE

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

THE WITNESS RESUMES HIS SEAT.

Second witness for the Defence — ZC-2223, Capt. F.X. Bergeron, A/Administrative Officer No. 4 Section A & T Staff, being duly sworn, is examined by the Defending Officer:-

Q.203 Will you identify yourself to the Court?

A.203 I am ZC-2223, Capt. F.X. Bergeron, A/Administrative Officer, No. 4 Section A & T Staff.

Q.204 Do you recognize this file?

A.204 I recognize this file as being the personal file of SD-61589 CQMS Boyer, Marcel.

Q.205 Will you turn to letter No. 105 and read it to the Court, please?

THE PROSECUTOR

I have an objection to that.

THE COURT

This is a confidential report made on the accused himself and the accused has consented to its reading and I do not see why we should refuse this privilege to the Defence.

THE PROSECUTOR

I feel that a confidential report prepared by an Army Examiner should be presented to the Court by the person who made the report and in the second place if this report should be given wide circulation the purpose of the report itself is defeating for the future. I repeat my objection.

THE COURT TO THE PROSECUTOR

But it will not be circulated.

PROSECUTOR TO THE COURT

As a Prosecutor, I make my objection. I am explaining the entry of the document I happen to know.

DEFENCE TO THE COURT

I would like to instruct Capt. Bergeron to produce certified true copies of the following letters: folio 105, 109 and 112.

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Q.206 Do you recognize this document?

A.206 I recognize this document as being a certified true copy of a letter on the personal file of SD-61589 C&MS Boyer, M.

Q.207 Will you produce it to the Court?

A.207 Yes, Sir.

Certified true copy of Personnel Selection Report is read, signed by the President, marked "Q" and annexed to the proceedings.

Q.208 Do you recognize this letter?

A.208 I recognize this letter as being a certified true copy of a letter on the personal file of SD-61589 C&MS Boyer, M.

Q.209 Will you produce it to the Court, Please?

A.209 Yes, Sir.

Certified true copy of letter dated 9 Nov 48, signed by Colonel M.L. de ROME, is read, signed by the Pres. marked as exhibit "R" and annexed to the proceedings.

Q.210 Do you recognize this letter?

A.210 I recognize this letter as being a certified true copy of a letter on the personal file of SD-61589 C&MS Boyer, M.

Q.211 Will you produce it to the Court, please?

A.211 Yes, Sir.

Certified true copy of letter dated 29 Nov 48, signed by Major E.D.M. McNaughton, is read, signed by the Pres. marked as exhibit "S" and annexed to the proceedings.

IN THE OPINION OF THE COURT AND THE JUDGE ADVOCATE THE PROSECUTOR DECLINES TO CROSS-EXAMINE.
IT IS NOT NECESSARY TO COMPLY WITH R.P. 83 (B)
THE WITNESS WITHDRAWS.

Third witness for the Defence

Mrs. Marcel Boyer, being duly sworn is examined by the Defending Officer:-

SD-150025 CSM (WO II) Lacombe, R., is sworn as interpreter.

Q.212 What is your name, please?

A.212 Mrs. M. Boyer.

Q.213 What is your relationship to the accused?

A.213 I am his wife.

Q.214 While S/Sgt Boyer was alleged to have deserted did he at any time state that he would return to the Army?

Q.202 Have you tried to contact him since?

A.202 I contacted him last Sunday. I telephoned and asked him to be here this morning. He told me he will be down but I don't see him around yet.

THE PROSECUTOR DECLINES TO CROSS-EXAMINE

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

THE WITNESS RESUMES HIS SEAT.

Second witness for the Defence — ZC-2223, Capt. F.X. Bergeron, A/Administrative Officer No. 4 Section A & T Staff, being duly sworn, is examined by the Defending Officer:-

Q.203 Will you identify yourself to the Court?

A.203 I am ZC-2223, Capt. F.X. Bergeron, A/Administrative Officer, No. 4 Section A & T Staff.

Q.204 Do you recognize this file?

A.204 I recognize this file as being the personal file of SD-61589 CQMS Boyer, Marcel.

Q.205 Will you turn to letter No. 105 and read it to the Court, please?

THE PROSECUTOR

I have an objection to that.

THE COURT

This is a confidential report made on the accused himself and the accused has consented to its reading and I do not see why we should refuse this privilege to the Defence.

THE PROSECUTOR

I feel that a confidential report prepared by an Army Examiner should be presented to the Court by the person who made the report and in the second place if this report should be given wide circulation the purpose of the report itself is defeating for the future. I repeat my objection.

THE COURT TO THE PROSECUTOR

But it will not be circulated.

PROSECUTOR TO THE COURT

As a Prosecutor, I make my objection. I am explaining the entry of the document I happen to know.

DEFENCE TO THE COURT

I would like to instruct Capt. Bergeron to produce certified true copies of the following letters: folio 105, 109 and 112.

A.214 Yes, Sir, to report back.

Q.215 Did he state the time when he would return?

A.215 When he would be through preparing his business.

Q.216 He had definitely said he would return?

A.216 Yes, Sir.

THE PROSECUTOR DECLINES TO CROSS EXAMINE

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

THE WITNESS WITHDRAWS.

Fourth witness for the Defence — Major H.A. Cowans, Insurance Broker, being duly sworn is examined by the Defending Officer:-

Q.217 Will you identify yourself to the Court?

A.217 I am Major H.A. Cowans.

Q.218 What is your present occupation?

A.218 Insurance Broker.

Q.219 When you identified yourself, you turned yourself as a Major, will you explain?

A.219 I am still in the Supplementary Reserve.

Q.220 Where were you during the past war?

A.220 I was with the Canadian 8 Recce Regt.

Q.221 In what capacity did you serve during the past war?

A.221 I came to them as Troup Officer served as Adjutant 2 i/c and Squadron leader.

Q.222 Do you recognize the accused?

A.222 I do, Sir.

Q.223 Who is he?

A.223 RQMS Boyer.

Q.224 In what capacity did you know him?

R.224 RQMS.

Q.225 Do you have a good knowledge of his work?

R.225 I do.

Q.226 How did you find him?

A.226 Completely satisfactory in every way.

Q.227 Can you state definitely that you know him well?

A.227 Very well.

Q.228 What is your assumption of his character?

A.228 RQMS Boyer had a reputation of being one of the finest RQMS in the 2nd Canadian Division.

Q.229 Who was commanding your Unit at the end of the war?

A.229 Colonel Merner.

Q.230 Can you state from the certified copy of this original letter (The Defending Officer shows exhibit "I" to the witness) was the distribution of such letters on a large scale?

A.230 I never known one to be issued before, I have never issued one myself?

Q.231 What was the regimental character of the accused, as a soldier?

A.231 Excellent, he had the confidence of all the COs.

Q.232 Speaking from your own experience, would you say that service during wartime is a severe strain on an individual or not?

A.232 In my point of view I would not say it is terribly rigourous.

Q.233 Were the incidents of crime in your Unit the same as in any other Units?

A.233 I do not think it is any greater. I have heard it was considerably less than a great many.

Q.234 During this time you state the character of RQMS Boyer was excellent?

A.234 Yes, Sir.

Q.235 Was he dependable or independable?

A.235 Completely dependable.

Q.236 Did he on any occasion of which you are aware absented himself without leave, attempted to desert or commit any offence against the Army Act?

A.236 No.

THE PROSECUTOR DECLINES TO CROSS EXAMINE THE WITNESS

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

THE WITNESS WITHDRAWS.

Fifth witness for the Defence — Major L.A. McKenzie, salesman for C.I.L. being duly sworn is examined by the Defending Officer:-

Q.237 Will you identify yourself to the Court?

A.237 Major Lorne A. McKenzie.

Q.238 What is your present occupation?

A.238 I am a salesman at the C.I.L.

Q.239 Do you recognize the accused on your right?

R.239 Yes, I do.

Q.240 Who is he?

A.240 He is CQMS Boyer, M.

Q.241 How did you come to know him?

A.241 I knew CQMS Boyer when he was RQMS at the 8 Recce Brigade.

Q.242 For how long did you serve in Canadian Recce Regt?

A.242 From 1943 to 1946.

Q.243 And during that time how long was S/Sgt Boyer, the RQMS of the Unit?

A.243 He was RQMS for the Unit all the time.

Q.244 How well did you know him?

A.244 Well, I might say fairly well, I knew him in an official capacity. For a certain period I was acting 2 i/c and in that way I had a fair amount of contacts with the RQ.

Q.245 What is one of the first responsibilities of the 2 i/c?

A.245 It has to do with the Administration.

Q.246 During the time you knew S/Sgt Boyer, how did he acquit himself?

A.246 He carried out his duties in a most efficient manner. He was very dependable. I don't believe we ever requested anything from him that we did not receive.

Q.247 During the time that you knew him, did he, to your knowledge, commit any offence againts the Army Act?

A.247 No, not to my knowledge.

Q.248 How would you state his military character?

A.248 I would say that it was very good in that he did not commit any offences against the Army Act.

THE PROSECUTOR DECLINES TO CROSS EXAMINE THE WITNESS.

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

THE WITNESS WITHDRAWS.

The Defending Officer makes a Closing Address (See document marked "T" attached)

The Prosecutor makes a Closing Address (See document marked "U" attached)

The Judge-Advocate addresses the Court. (See document marked "V" attached)

E

FINDING

The Court is closed for the consideration of the finding.

The Court find that the accused, SD-61589, CQMS M. Boyer, No. 4 Section A & T Staff, CA (AF)

is not guilty of desertion, but guilty of absence without leave.

ANNOUNCEMENT OF THE FINDINGS

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

The finding is read in open Court and is announced as being subject to confirmation.

PROCEEDINGS ON CONVICTION BEFORE SENTENCE

ZC-2223, Capt. F.X. Bergeron, A/Administrative Officer, No. 4 Section A & T Staff, is duly sworn:-

Q.249 Have you any evidence to produce as to the character and particulars of service of the accused?

A.249 Yes, Sir. I produce MFM 6 and MFB 355.

The above statement is read, marked "Y" "Z", signed by the President, and annexed to the proceedings.

Q.250 Is the accused the person named in the statement which you have heard read?

A.250 Yes, Sir.

Q.251 Have you compared the contents of the above statement with the regimental books?

A.251 Yes, I have compared the contents of the above statement with the regimental books.

Q.252 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?

A.252 Yes, Sir. They are.

DEFENDING OFFICER DECLINES TO CROSS-EXAMINE THE WITNESS

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

THE WITNESS WITHDRAWS.

Q.253 Do you wish to address the Court?

A.253 No, Sir, but I wish to file with the Court a written statement duly signed by me.

The statement is read by the Court, signed by the President and attached to the proceedings (see document marked "W")

The Court is closed for the consideration of the sentence.

F

ANNOUNCEMENT OF SENTENCE

Sentence

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

To be reduced to the ranks.

The Court sentence the accused

SD-61589, CQMS Marcel BOYER, RCIC,
No. 4 Section A & T Staff CA (AF)

to be reduced to the ranks

The sentence is announced in open Court: the sentence is announced as being subject to confirmation.

Signed this 26th. day of April 1949

Gérard Nantel

(G.A.M. NANTEL) Major,
Judge-Advocate

Paul E. Amyot

(P.E. AMYOT) Major,
President D.C.M.

Extracts entered as No. 4705 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 23rd day of May 1949.

Confirmed

Signed at Montreal, Que., this 5th day of May 1949.

M.L. de Rome

(M.L. de ROME) Col.,
Officer i/c Administrati
HQ Quebec Command CA (

Promulgated and extracts taken at HQ Quebec Command Montreal, P.Q., this 6th day of May 1949.

E. Laplèur

(E. LAPLEUR) Capt.,
Adm. Officer, No. 4 Sec A & T Staf
CA (AF)

"X"

ORDERS BY Colonel M.L. ~~De ROME, OBE, ED~~ Paul E. Amyot, RCIC
Officer i/c Administration, Que. Command, CA

DISTRICT COURT-MARTIAL
ZD-61589, CQMS Marcel BOYER
RCIC, No. 4 Section A&T Staff, CA (AF)

The detail of officers as mentioned below will assemble at Headquarters, Quebec Command, Montreal, Que., on Tuesday the 26th. day of April 1949, at 1000 hours for the purpose of trying by a District Court-Martial the accused person named in the margin (and such other person or persons as may be brought before them).

PRESIDENT

ZP-1371, Major P.E. AMYOT, RCSigs
HQ Quebec Command, CA (AF)

MEMBERS

ZE-256, Capt. L.P. Laplante, RCA,
HQ Quebec Command, CA (AF)

ZD-2164, Capt. J.M. Leblanc, RCIC,
No. 4 Section A&T Staff, CA (AF)

WAITING MEMBER

ZE-642, Capt. H. Chasse, RCIC,
HQ Quebec Command, CA (AF)

JUDGE ADVOCATE

ZC-1989, Major G.A.M. Nantel, General List,
AJAG, HQ Quebec Command, CA (AF), is appointed Judge-Advocate.

PROSECUTOR

ZE-3015, Capt. M.A. Cardinal, RCIC,
HQ Quebec Command, CA(AF), is appointed Prosecutor.

DEFENDING OFFICER

ZK-231, Capt. P.W. Ayriss, RCAC,
No. 5 Section A&T Staff, CA (AF), is appointed Defending Officer.

UNDER INSTRUCTION: All officers available at HQ Quebec Command, Montreal, Que.

The accused will be warned and all witnesses duly required to attend.

The Officer Commanding No. 4 Personnel Depot CA (AF), will arrange for the necessary accommodation, stationery, court orderly, escort and interpreters.

The proceedings will be forwarded to the AA & QMG, HQ Quebec Command CA (AF).

Signed this 20th. day of April 1949.

M.L. de Rome

(M.L. de ROME) Colonel,
Officer i/c of Administration,
HQ Quebec Command, CA (AF)

MFB 220

"G"

THIRD WITNESS

ZD-129 Major F. de S. ROBERT, Officer Commanding No. 4 Section A&T Staff(Canada), having been duly sworn states:

At Montreal, at about 1200 hrs on 1 Mar 1949, I saw CQMS BOYER in my office about his transfer and his presumptive absence. After the interview I told BOYER to return to Sherbrooke and that I would call him back on the 7 or 8 March 1949.

The accused declines to cross-examine the witness: R.P. 83 (B) has been complied with.

ZD-129 Major F.de S. ROBERT,
O.C. 4 Sec A&T Staff

QUESTION TO THE ACCUSED

Do you wish to make any Statement or 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.

ANSWER BY THE ACCUSED

Yes, I wish to make a Statement upon oath.

SD-61589 CQMS BOYER, M. No. 4 Section A&T Staff, having been duly sworn states:

For the last six months I have applied for a transfer or a discharge, and no definite answer was ever given to me. As I was going out of the army I needed to establish myself in civil life. I had to be out of the army before spring as in the business I am stating I need to be free from any responsibilities as far as the army is concerned. In my 35 days of absence I did establish my business which is "Pickling Business" under the name of SALCHE ENRG. That can be checked at the Provincial Superior Court Registration Office. I was going to give myself up on April 11, 1949, to explain myself and get my civilian papers which are the only thing I need to obtain my license.

SD-61589 CQMS BOYER, M.
No. 4 Sec A&T Staff

"H"

Paul E Amyot
Pres DCM

" H "

21st ARMY GROUP

D-61589 RQMS BOYER, M.

C.A.C. (8 Cdn Recce Regt (14 CH))

It has been brought to my notice that you have performed outstanding good service, and shown great devotion to duty, during the campaign in France.

I award you this certificate as a token of my appreciation, and I have given instructions that this shall be noted in your Record of Service.

(Sgd) B.L. Montgomery.

Date June 1944

Field Marshal
Commander-in-Chief, 21st Army Group

CERTIFIED TRUE COPY

F.X. Bergeron
(F.X. BERGERON) Captain
A/Officer Administering
No.4 Section A&T Staff.

"I"

8 Canadian Reconnaissance Regiment (14CH)

To whom it may concern:

D-61589 RQMS (WO II)BOYER, M.

This certifies that the m/n WO enlisted in the Cdn Army in Sep 1939, proceeded to United Kingdom in April 1940 and has served continuously with CA(OS) since that time. On the formation of 8 Cdn Recce Regt (14CH) in Jan 1941, he transferred to this Regiment as RQMS, a post he has held since. He proceeded into operations with the Regiment on 3 July 1944 and has served continuously with the Regiment.

During the period of over four years with the Regiment RQMS Boyer has had to equip and account for equipment of the unit under 4 separate War Establishments, each change necessitating an almost complete changeover of equipment. So well has he carried out his duties that Ordnance Officials have at various times remarked on the efficiency and completeness of his records.

I have great pleasure in recommending RQMS Boyer to any prospective employer as an extremely able, hard working and responsible man - one who has given faithful and willing service throughout his army career.

Yours faithfully,

(Sgd) John F. Merner

(J.F. Merner) Lt.-Col.,
Comd 8 Cdn Recce Regt (14CH)

GERMANY
30 May 45

CERTIFIED TRUE COPY

(F.X. Bergeron)Captain
A/Officer Administering
No.4 Sec A&T Staff.

In reply please quote No. Hs (A-C-3 (MR))

" J "

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

Bury, P.Q.,
25 Mar 48.

CONFIDENTIAL

HQ E Que Area,
Post Office Building,
Quebec, Que.

Attn: AREA RECORDS OFFICER

SD-61589 WO II BOYER, Ma
5 Sec A&T Staff

Ref your Q: SD-61589 (ARO) d/10 Mar 48.

2. Capt P.W. AYRISS, 5 Sec A&T Staff has made an investigation, and reports as follows

The transfer of WO II BOYER to Montreal on compassionate grounds is to be desired.

Mme Boyer has been ill for some time as a result of three miscarriages. She is presently pregnant and has suffered quite continuously. It is imperative that Boyer be transferred in order that his wife receive attention form her family physician.

Mrs Boyer has not been happy in Bury. The family have been unable to obtain a house with all conveniences, and the crisis precipitated by the discomfort of rural life almost broke up the family.

Mrs Boyer has no relative closer than Montreal. She is of a reserved nature, and has had a very lonely and unhappy life in Bury.

Capt Ayriss has been unable to get a Docter's report, Mrs Boyer has had all her medical attention in Montreal. If one is still required, steps will be taken to obtain one.

3. The transfer of WO II BOYER to Montreal on compassionate grounds is strongly recommended.

(W.A. BISHOP) Lieut-Col.,
Officer Commanding,
16 Recce Regt RCAC.

CERTIFIED TRUE COPY

(F.X. Bergeron) Captain
No.4 Section A&T Staff.

"K".

Paul E Amyot
Pres DCH

Sherbrooke, le 29 Novembre 1948.

Major R. de S. ROBERT,
Officier Commandant,
A. & T. Staff Section No.4,
Montreal, P.Q.

Monsieur,

Il y a 5 semaines j'ai eu une entrevue avec le Lt-Colonel Turcot, Officier Commandant du Royal 22e Regt. afin d'obtenir mon transfert avec son Unité, tel que je vous en avais parlé lors de votre visite ici, en qualité d'Officier de Liaison.

2. Le Lt-Col. Turcot m'accepterait dans les cadres de son Unité comme CQMS en autant que le Quebec Command sanctionnerait mon transfert.

3 Depuis j'ai eu une entrevue avec le Capt.Lafleur Officier en charge des Records, il y a de cela 5 (cinq) semaines et je n'ai pas encore eu de nouvelle.

4. J'ai revu le Capt. Lafleur il y a deux (2) semaines et il m'a dit qu'il était pour s'occuper de mon cas.

5. Il y a déja 3 ans que je suis sur le A& T. Staff et de ce fait ne peut etre avec ma famille, ce qui me cause une dépense additionnelle. Obtenant mon transfert, j'aurais immédiatement un logement, avoir ma famille avec moi ce qui me couterait beaucoup moins cher et de par ce fait faire honneur aux quelques dettes que je pourrais avoir.

6. Auriez-vous Monsieur l'obligeance d'étudier mon cas aussitôt que possible avant que cette vacance soit remplie et j'espère recevoir de vous une réponse affirmative à ma demande.

Je demeure Monsieur,

(Signé) Marcel Boyer
(Marcel Boyer) CQMS
A&T Staff
Les Fusiliers de Sherbrooke.

CERTIFIED TRUE COPY

F X Bergeron
(F.X. Bergeron) Captain
No.4 Sec A&T Staff.

" L "

In reply please quote No. FS 6-2-139

Paul E Amyot mcj
Pres DCM

DEPARTMENT OF NATIONAL DEFENCE

- A R M Y -

Sherbrooke, 1 Dec 1948.

Officer Commanding,
No.4 Section A&T Staff,
3530 Atwater Ave.,
Montreal.

SD-61589 CQMS BOYER, M.
No.4 Section A&T Staff

Reference is made to your letter QC SD-61589 (REC) regarding the m/n NCO.

2. The services of a C.Q.M.S. are needed in this Unit. These functions will be more important still in a very near future as we will have a cadet corps operating with the Unit.

3. Nevertheless, I understand that the m/n NCO could bring his cost of living down considerably in being transferred to Valcartier where he could have accomodation for his family. It would be unfair to try and keep him here. Therefore, I am prepared to let him proceed on this posting, hoping to get a replacement as soon as it is available.

(Sgd) Sarto Roy Lt-Col.,
(D Sarto Roy) Lt-Col.
Officer Commanding
Les Fusiliers de Sherbrooke.

CERTIFIED TRUE COPY

F X Bergeron
(F.X. Bergeron) Captain
No.4 Section A&T Staff.

" H "

Formule 0637 10,000-3-46-B-H

.....19.....

DANS LA COUR SUPERIEURE POUR LA PROVINCE DE QUEBEC

DISTRICT DE MONTREAL

No. Vol. 75 P.S.

Paul E. Hamel
Pro DCM

Paul E. Hamel
Pro DCM

Je soussigné, député-protonotaire de la Cour Supérieure de la Province de Québec, pour le district de Montréal, certifie, par les présentes, que le 23 mars.....1949 Mons. Aimé Marcel Boyer, commis-voyageur,..... de la Cité de Montréal, ----a-----déposé, au bureau du protonotaire de la dite Cour Supérieure, une déclaration attestant qu'il fait------ affaires, à Montréal, sous le nom "SALOME ENRG."..... .....

Montréal, le 23 mars 1949

(Signé) Eng. Bellay

Député-protonotaire.

CERTIFIED TRUE COPY

F X Bergeron

(F.X. BERGERON) Captain
A/Officer Administering
No.4 Sec A&T Staff.

Paul E. Amyot
Pres DCM

"N" Le 23 Mars 1949

REÇU DE / RECEIVED FROM Marcel Boyer 00/100 Dollars

LA SOMME DE / THE SUM OF Trois

Declaration de Société

Salome Enrg.

EUDES & DENYS

Nº 1376 $ 3.00 PAR: / PER: Lacombe

" O "

81

Paul E Amyot
Pres DCM

IMPRIMERIE BLAIS
1501 rue Joliette Frontenac: 4400

Montréal.....23/3/49.....1949

M. M. Boyer

1467 Joliette

Montréal.

SOUMISSION

500 Libelles

Papier gommé - Die

2 couleurs

Dessin Spécial		20.00
500 Pancartes avec Dessin	11 X 9	20.00
		$40.00

plus taxes

No. 194 Signature: J. Blais

CERTIFIED TRUE COPY

F.X. Bergeron
(F.X. Bergeron)Captain
A/Officer Administering
No.4 Section A&T Staff

Paul E. Amyot
Pres DCM

"P"

• GOUTEZ NOS

"SALOME"



SI DELICIEUX AVEC LA . . . . ! !

SALOME

CHEESE BITES

GRATIS ~~DILL PICKLE~~

SALOME ENR'G. - MONTREAL

BOITE POSTALE No. ~~124~~

EN VENTE ICI

"Q"

CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE
(Army)

This report is NOT to be given in the soldier's documents

Personnel Selection Report

Pers DCM

To O.C. No.4 SEC A&T Staff — TYPE OF REFERRAL Posting to other unit.

I.

Regtl. No.	Rank	Name (Surname first)	GS or NRMA	Present Unit	Y.O.B.	P	U	L	H	E	M	S	DATE ASSIGNED
SD-61589	SQMS	BOYER, Marcel		4 Sec A&T Staff	13	1	1	1	1	1	1	1	7 Oct 47

II. REVISED EXAMINATION "M"

"B" Form — (RE-TEST) Date tested — 19 May 48 — French English or French

Total	Group	Sub-tests 1	2	3	4	5	6	7	8	Sub-totals 1-3	4-5	6-8
146	III	15	16	8	26	28	5	25	23	39	54	53

III. RELEVANT INFORMATION AND APPRAISAL

EDUCATIONAL

Attended "Ecole Chomedy de Maisonneuve" School for 6 years and then left work so as to help family financially.

OCCUPATIONAL

1934-37 - Insurance agent.
1937-39 - Fire Insurance adjustor up to enlistment.

MILITARY

Volunteered on 29-9-39 - Interim Force 18 July 1946.

Other Relevant Informations

As can be seen from previous P.S.S. reports on SQMS Boyer, his trouble is solely one of housing accommodation. In his present posting on A&T Staff with "Les Fusiliers de Sherbrooke" he has been unable to secure a lodging for his family consisting of his wife and 1 child, with the consequent result that, obliged to keep up a separate establishment for his family in Montreal, he has put himself in debt.

As there is a CQMS vacancy in R 22e R at Valcartier and as Boyer has long and satisfactory service in QM Stores, it is felt that the best interests of the Army and of Boyer would be served if he were posted to R 22 R at which unit he could find QPMQ or RMQs.

The O.C. - R 22e R has seen Boyer and is quite willing to have him in his unit, according to Boyer.

IV. RECOMMENDATIONS

Posting to R 22e R to cover off CQMS Vacancy

PD 4, Montreal, Que. (Place) — 25 Oct 1948 (Date) — M. Ranger, Capt., (Army Examiner)
(M. Ranger) Capt.,
Personnel Officer.

CERTIFIED TRUE COPY

(F.X. Bergeron) Captain
A/Officer Administering
No.4 Sec A&T Staff

M.F.M. 238 (Amended)

"R"

QC-SD-61589(REC)

"R"

Paul E Anyon
Pres DCM

Montreal, Que.
9 Nov 48.

Headquarters,
Eastern Quebec Area
Quebec City, Que.

SD-61589 CQMS BOYER, M.

A vacancy of CQMS, Code number 899-50-06 exists at the Royal 22e Regiment Quebec.

2. It is requested that consideration be given to the posting of this NCO to that vacancy. CQMS Boyer has been separated from his wife since his posting to No.4 Section A&T Staff and he claims he can get a house in Quebec City where he will be able to live with his family.

3. Attached hereto is the personnel officer's report recommending this posting.

4. May this matter be discussed with the Officer Commanding Royal 22e Regiment and this Headquarters advised whether or not CQMS Boyer is suitable for the vacancy and acceptable to the Officer Commanding that unit. As CQMS Boyer was formerly a member of No.5 Section A&T Staff the Officer Commanding that unit is able to give his views as to the suitability of Boyer to cover vacancy.

(Sgd) J.A.L.
for(M.L. de Rome) Colonel
Chief of Staff
Quebec Command.

Encl.

CERTIFIED TRUE COPY

F.X. Bergeron
(F.X. Bergeron)Captain
A/Officer Administering
No.4 Sec A&T Staff.

"S" QC-SD-61589(RMC) 89

Paul E Angot
Pres DCM

Montreal, Que.,
29 Nov 48.

Officer Commanding,
Les Fusiliers de Sherbrooke,
Sherbrooke, Que.

SD-61589 CQMS BOYER, M.
No.4 Section A&T Staff

This NCO has applied for a posting to the Royal 22e Regiment where there exists a vacancy of C.Q.M.S.

2. It appears that accomodation is available in Quebec for S/Sgt Boyer and his family.

3. As no replacement is immediately available, please advise whether or not you are prepared to let this NCO proceed on this posting if authorized.

(SGD) E.P.L.
for(E.D.M. McNAUGHTON)Major,
Officer Commanding
No.4 Section A&T Staff

CERTIFIED TRUE COPY

F. X. Bergeron Capt.
(F.X. Bergeron)Captain
A/Officer Administering
No.4 Sec A&T Staff.

"T"

SUMMING UP BY DEFENDING OFFICER

Paul E. Amyot
Pres DCM

Gentlemen:-

Footnote to Section 12 (1) states that where desertion is charged intention must be proven; S/Sgt Boyer has a military record that can only be described as excellent. This has been vouched for by the evidence of two character witnesses of impeccable repute, by documentary evidence and especially by a letter by the OC of his wartime Unit and a certificate from the Commander of the 21st Army Group. He served from 1939 to 1945. A great deal of that service ina theatre of operations without a blemish on his character, without a charge being laid against him; there followed a period of important work with UNRRA after which he re-enlisted in the Canadian Army. He had been away from his wife and family for a number of years, his son had grown up, his wife had been forced to carry on the duties of the house without the assistance of her husband. When he rejointed the Army he did so in the expectation of having a posting where he and his family could be together. This did not prove to be the case. First he was posted to Bury, Quebec, a small rural town absolutely devoid of any type of entertainment and where a fairly low standard of living is maintained, running water, inside plumbing, etc., andthe strain proved to be too much for his wife and his wife and child returned to Montreal and took up residence in a place which has been his home for some years.

Bury is 135 miles from Montreal. It is impossible for a NCO to make that trip very often without a very serious effect on his pocketbook and finances; so believing he had an opportunity of securing a posting to Montreal, Boyer, who had been a confirmed WO II for over four years, reverted to the rank of CQMS to obtain the posting to Montreal itself. This posting was not given to him. Later on, after contacting Col. Turcot, he was offered a vacancy as CQMS in the Royal 22e Regt and managed

to locate accommodation for his wife and family in Quebec City. This would have been the ideal solution.

When he attempted to purchase his discharge from the forces they talked him down and he was posted to Sherbrooke which is only 25 miles closer to Montrea. This City has grown very rapidly in the last few years and accommodation in Sherbrooke is impossible to obtain. So, still it was out of the question for him to have his family. There seems to be no doubt that friction arose between himself and Major Robert. A man who has had an absolutely unblemished character for over eight years service is accused of deserting His Majesty's Forces but during the time of this alleged desertion Boyer was moving around under his own name and giving his legal residence in Montreal. He has appeared at various places such as the Protonotary Court in Montreal and before a firm of lawyers trying to establish a business to which he could turn when he left the Army. To his way of thinking, the Army had ruined his life and was not fair. During all the period of his alleged desertion he appeared under his own name and gave his legal address. His wife has stated that he told her he intended to return to His Majesty's forces as soon as his business was completed. He would surredder and return to Headquarters in Montreal.

The facts of the case have been laid before you. Very little can be said about it, but it must be self-evident that a man who has been so good for so long would not have transgressed unless at the time, he was suffering from what he might think to be persecution, the time he committed the alleged offence. He has had very extenuating circumstances. Over two years of effort to reunite himself with his family..

Gentlemen, you have in your hands the future of this NCO and I must plead that his wartime services be very seriously taken into account.

I thank you.

"U"

CLOSING ADDRESS BY THE PROSECUTOR

Paul E Amyot
Pres DCM

Gentlemen:-

A charge has been laid against CQMS Boyer of Deserting His Majesty's Service in that he, at Sherbrooke, Que., absented himself without leave at 0900 hours on 2 Mar 49 until apprehended by the Military Authorities at 1600 hours on 6 Apr 49. Major F de S Robert, the accused's Commanding Officer has testified before this Court to the effect that on 1 Mar 49 he gave specific instructions to the accused to report the same day to his Unit in Sherbrooke, Que.

Capt. Perusse, the A & T Staff of Les Fusiliers de Sherbrooke gave evidence to the effect that at 0900 hours on 2 Mar 49, CQMS Boyer had not reported to his place of duty. Sgt. Williams of C Pro C testifies the fact that he apprehended CQMS Boyer in Quebec City, at 1600 hours on 6 Apr 49. The accused himself, under oath, admitted the fact that between 0900 hours, 2 Mar 49 and 1600 hours, 6 Apr 49, he did not perform any type of military duty.

CQMS Boyer, as he said, is 35 years old - he was not inducted in the Army, he came to the Army of his own free will. On 1 Oct 46 he contracted to serve in the Canadian Army for the period of three years. This period will expire 1 Oct 49. By the term of his contract, he engaged himself to serve wherever he would be required in or whatever capacity. I wish to refer your attention to Chapter 6, Section 14, page 73 of the Extracts of M.M.L. where it is stated:

" Intention is not capable of positive proof; it can only be inferred from overt acts.
As a general rule a person is presumed in law to have intended the natural and probable consequences of his act. "

The Defence has established the fact that CQMS Boyer enlisted sometime in Sep 39, slowly, gradually worked his way up to RQMS. This should prove to us that CQMS Boyer knows the Army, he has been in same for a long time. He is familiar with

the Military Act and the offences in ralation thereto. He is also familiar or should be, with Military Law concerning certain regulations contained in KR (Can) to govern the acts and conduct of any soldier.

In his capacity and in his rank as CQMS, he should serve as an example to the other soldiers. Instead of being an example as he should have been, he committed an offence, which to my way of thinking, is certainly not very recommendable.

I would like, in conclusion, to bring tothe attention of the Court, Section 56, paragraph 3 or Army Act:-

" An accused charged before a court-martial with attempting to desert may be found guilty of being absent without leave. "

Thank you.

SUMMING UP OF THE JUDGE ADVOCATE

In summing up the evidence, the judge-advocate must be careful not to indicate to the Court any opinion which he may have formed as to the facts and if during this summing, I, by inadvertance give any opinion as to the facts, I ask to disregard such opinion because it will not be my fault.

May I start by recalling to the Members of the Court certain principles that apply before courts-martial as well as in any other court. The first principle is that every man is presumed to be innocent until he is proved to be guilty. He who alleges a fact must prove it whether the allegation is couched in affirmative or negative terms. It follows that it is incumbent on the Prosecution to give evidence showing the commission of the offence and connecting the accused therewith. The burden of proof of the particulars of the charge rests upon the Prosecution. Unless, therefore, the guilt of the accused has been established beyond reasonable doubt - the accused must be acquitted as the Prosecution has failed to sustain adequately the burden of proving his guilt.

The Court, in considering their decision, must not be influenced by the consideration of any supposed intention of the Convening Officer in sending the accused for trial by a Court-Martial. The Court must decide whether the facts alleged in the particulars of the charge have been proved in evidence and if proved whether they disclose the offence stated in the charge itself. It is the duty and the exclusive privilege of the Members of the Court to determine the value of the evidence brought by the Prosecution as well as by the Defence, and in appreciating the evidence, the Court has to take care to weigh the credibility of the witnesses. If the Court come to the conclusion that there is a reasonable doubt, that the accused has not committed the offence as stated in the particulars of the charge, the Court will give the benefit of this doubt to

the accused and him not guilty.

Capt. Perusse, first witness for the Prosecution. He testifies that on 26 Feb 49, received a telephone call from the accused. Stated that the accused was requested to report in Sherbrooke at Les Fusiliers de Sherbrooke, on 28 Feb 49 only. On the 28 Feb 49, the accused never showed up. He did not see the accused since he left for the Winter Training Camp.

Second witness - Major F. de S. Robert, Officer Commanding No. 4 Sec A & T Staff. On 1 Mar 49, interviewed the accused and told him to report the same day to his station, in Sherbrooke. He testifies also that the accused was attached for duty to Les Fusiliers de Sherbrooke. On cross-examination he admits that he knew CQMS Boyer since quite a long time, that many times he came before him for interviews and that he asked for a transfer from Les Fusiliers de Sherbrooke to the Royal 22e Regt in Quebec. He also admits that the accused requested his discharge to become a meat salesman for Wilsil or some other Firm, and that he was convinced by Major Robert to stay in the Army. He admits that he asked the accused if he wanted to see his wife or whether he was not interested. He admits that every efforts were made to transfer the accused but without success.

Third witness - Sgt. Williams, J.B. On 6 Apr 49, at 1600 hours apprehended the accused at 437 St.Jean St., Quebec City.

Fourth witness - Capt. J.Y. Theriault. Was examined on voir-dire. Filed the declaration made by the accused.

As far as the Defence is concerned there is a long story of the military service of the accused from Sep 39 until he re-enlisted in the Canadian Army on 1 Oct 46.

The accused under oath stated that many times he requested a fransfer from Les Fusiliers de Sherbrooke or even

SUM[illegible]NG UP OF THE JUDGE-ADVOCATE CONTD (3)

from Bury where his wife was. The accused was not happy because he was away and because his wife was sick. Never got satisfaction as to his transfer. Had interview with Lt.Col. Turcot, who told him that there was a vacancy for a CQMS in the Royal 22e Regt. Saw Major Robert and told him the situation. The accused brought certified copies of letters which are before the Court and filed as exhibits. He stated himself that he intended to return as soon as his business was completed. In cross-examination, the accused added that he was 35 years of age. He admitted the particulars of the charge.

Second witness - Capt. F.X. Bergeron, who filed simply three certified true copies of letters, documents taken from the personal file of the accused.

Third witness - Wife of the accused, who states that her husband told her that he intended to return as soon as arrangements in his business was completed. This is a sort of corroboration to the evidence of the accused.

Fourth witness - Major H.A. Cowans. Gave a very fine statement as to the character of CQMS Boyer whilst he was serving under him in the 8 Recce Regt, overseas.

Fifth witness - Lorne A. McKenzie. Another ex-officer of the 8 Recce under whom the accused served overseas. Also gave a good statement as to the character of the accused whilst he was serving under him.

Now, the only duty of the Court at this stage, is to come to a finding of guilty or not guilty. As I said before, under 56, Army Act, the Court may arrive to a special finding of not guilty of desertion but guilty of absence without leave. On the other hand, if the Court is under the impression that the Prosecution has failed completely to prove the particulars of the charge, they should acquit the accused, because any doubt should be interpreted in his favour.

Paul E Amyot
Pres DCM

PLE A IN MITIGATION OF AN OFFENCE

Sir, I wish to offer the following plea in mitigation of the offence of which you have adjudged me guilty.

I have over eight year's service ih the Canadian Army. Six of these years were during war time, and eleven months were spent in a theatre of operations.

During this time I rose, by my own efforts and ability, from Tpr to WO II. I served as RQMS of my Regiment (8 Cdn Recce Regt) for over four years. My qualities as a soldier during all this time are certified by the letter and certificate handed in by my defending officer.

In all these years, I was never even brought up on charge.

Following the war, and my discharge, I re-enlisted in the Canadian Army (AF) and my service, up till recently, was good.

I realize the gravity of the offence I have committed, and realize that discipline must be enforced.

I would, however, point out that my absence without leave was directly caused by the aggravating and discriminating treatment I received. Persistent efforts to obtain a transfer so that I might be with my wife were refused: I was dissuaded from purchasing my discharge.

In desperation I went absent without leave, and took the first steps towards establishing a business. I now stand to lose all that I have attained. A prolonged absence from my business will cause my financial ruin. At the same time it will work great hardship on my wife and child.

I sincerely appeal, Sir, foor your clemency, and trust that this appeal for mitigation may influence your award.

W. Boyer S/Sgt.
(Marcel HOYER)

Reg. No. D-61589 Name BOYER, Marcel Corps Que.M.R., CASF Date of enlistment or enrolment 29/9/39 Date of birth

Signature O.C. Company, etc.

Sheet No. of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
In the Field	5 Mar 42	R.Q.M.S.		A.A. Sec 40 Conduct to the prejudice etc. Wilfully obliterating a serial number from a Smith & Wesson pistol. (Public property)	Capt J.F. Merner Sgt.Rose No 2 Provost Coy	F.G.C.M., Severely Reprimanded	5 Mar 42	Brig.J.H. Roberts, C.O.C. 2 Cdn Div.	Promulgated 19 Mar 42

Certified true extract

(F.X. Bergeron) Captain
A/Adm Officer No.4 Sec AAT Staff

(P.T.O.)

M.F.M. 6—500M—8-44 (5386)
H.Q. 1772-39-1682

108

Date	Date of offence	Rank	Cause of [illegible]	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				Awarded the C-in-C's Certificate for Good Service Auth: Cdn RO (21 A-GA) 672					

"Y"

107

"Z"

Paul E Amyot
Pres DCM

M.F.B. 355
23M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
SD 61589	CQMS	BOYER Marcel	No 4 Sec A&T Staff (Cda

1. The following is a fair and true summary of the entries in the ~~Service and General~~ 2 x 3 Regimental and ~~Squadron, Battery~~ 2 x 3 ~~Conduct sheets~~ 2 x 3 2 x 3 ~~or~~ Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ 2 x 3 Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	NIL	times	NIL	times
For	NIL	times	NIL	times
For	NIL	times	NIL	times
For	NIL	times	NIL	times

~~Number of instances of gallantry or distinguished conduct~~ 2 x 3 ~~or,~~ 2 x 3

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

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

2. ~~The accused has not been previously convicted~~ 2 x 3 ~~or~~ 2 x 3

Previous convictions of the accused by a court-martial ~~or a civil court, of summary awards under~~ 2 x 3 ~~Section 47 of the~~ ~~Air Force Act~~ 2 x 3 ~~Army Act~~ ~~and dispensations with trial under~~ ~~A.F.A. 73~~ 2 x 3 ~~A.A. 73~~ ~~are~~ 2 x 3 set out in the Schedule annexed to this statement.

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

~~or,~~ 2 x 3

~~The accused at the present time is under sentence for~~ ..... ~~beginning on the~~ 2 x 3 ~~day of~~ 2 x 3

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 20 days in ~~Air Force~~ 2 x 3 military custody, making a total of 20 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ 2 x 3 attestation paper is ~~45~~ 35 yrs 11 mos 24 dys 2 x 3

6. The date of his ~~commission~~ 2 x 3 attestation specified in ~~his record of service is~~ 2 x 3 his attestation paper 14 Nov 46

7. The service which the accused is allowed to reckon towards discharge is 9 yrs 2 mos 18 dys

8. The accused is entitled to reckon 2 yrs 6 mos 26 dys service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ 2 x 3 military decoration, or ~~air force~~ 2 x 3 military reward (or is in possession of or entitled to). State any air force military decoration or reward.

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held~~ 2 x 3 ~~Air Force~~ 2 x 3 ~~the regimental rank of~~ 2 x 3

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

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

16 May 48 Date of promotion.

In the rank of WO II 7 years.

In the rank of ..... years.

In the rank of ..... years.

(Previously served as WO II reverted to CQMS at his own request on above mentioned date.

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 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, Number D 61589 Rank RQMS WO II

Name BOYER Marcel of Fus Mont Royal CASF Unit Regiment

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

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	5 Mar 42 In the Field	A.A. Sec 40 Conduct to the Prejudice of Good Order and Military Discipline. Willfully obliterating a serial number from a Smith & Wesson pistol. (Public property)	Severely Reprimended	N/A

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 26th day of April 1949

F.X. Bergeron Capt
A/Adm Offr No 4 Sec A
Staff.

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.

MEDICAL OFFICER'S REPORT

Paul E. Amyot
Pro

I certify that No. SD 61589 CQMS BOYER, M.

of No 4 Sec A&T Staff is in a good state of health,

and fit to undergo Trial by Court martial.

[signature] Major
Medical Officer RCAMC
H.Q. Quebec Command

Station Montreal, Que. 26 Apr 49.

Date

M. F. B. 246
50M—9-44 (5427)
H.Q. 1772-39-480

Paul E Amyot mj
Pres DCM

A

SUMMARY OF EVIDENCE

in the case of

SD-61589 CQMS BOYER, M.

charged with

I: DESERTING HIS MAJESTY'S SERVICE

The CO directs that the evidence be taken under oath:

FIRST
WITNESS

ZD-2532 Capt M. PERUSSE, No. 4 Section A&T Staff (Canada), being duly sworn states:

At Sherbrooke, at or about 1100 hours on 26 Feb 1949, I was attached Les Fusiliers de Sherbrooke as A&T Staff Officer. I received a telephone call from CQMS Boyer informing me that he was back from winter training school and telling me that he was at his home in Montreal and if he could report on the next Monday, the 28 Feb 49.

I told him it was all right. On Monday morning I received a letter addressed to the O.C. Les Fusiliers de Sherbrooke, from O.C. No. 4 Section A&T Staff, instructing that CQMS Boyer was to report to Major F de S Robert at 1200 hours Tuesday 1 Mar 49.

I telephone CQMS Boyer at his home in Montreal and told him to report to Major Robert at 1200 hours Tuesday 1 Mar 49.

On Thursday, 3 Mar 49, as CQMS Boyer was not back at the Armoury in Sherbrooke I telephoned Major Robert and asked him if he had given instructions to CQMS Boyer to remain in Montreal. Major Robert told me NO and said that CQMS Boyer was supposed to have reported back to Sherbrooke on the same day of his interview, with him which was Tuesday 1 Mar 49. I then told him that CQMS Boyer had not yet reported to Sherbrooke and gave him the address and telephone No. of CQMS Boyer in Montreal. I have never seen

CQMS Boyer in Sherbrooke after.

The accused declines to cross-examine the witness:

R.P. 83 (B) has been complied with.

ZD-2532 Capt M. Perusse,
No. 4 Sec A&T Staff

SECOND WITNESS

SD-109112 Sgt J.B. WILLIAMS, "B" Detachment No. 6 Coy Cdn Provost Corps, having been duly sworn states:

At Quebec on 5 Apr 49 I received a telephone call from APM Quebec Command to apprehend CQMS Boyer. Inquiries conducted on the 5th and 6th April 49 resulted in the apprehension of CQMS Boyer at 1600 hours on 6 Apr 49.

At the time of apprehension CQMS Boyer was dressed in military uniform.

He was placed in the Citadel under escort of the member of the R 22e R. I received instructions from APM Quebec Command to escort CQMS Boyer on the train leaving Quebec City at 1800 hours 6 Apr 49. At 2340 hours 6 Apr 49 I turned over CQMS Boyer to an escort at No. 25 C.O.D.

The accused declines to cross-examine the witness

R.P. 83 (B) has been complied with

SD-109112 Sgt Williams, J.B.
"B" Detachment No. 6 Coy C Pro C

THIRD
WITNESS

ZD-129 Major F. de S. ROBERT, Officer Commanding No. 4 Section A&T Staff(Canada),having been duly sworn states:

At Montreal,at about 1200 hrs on 1 Mar 1949, I saw CQMS BOYER in my office about his transfer and his presumptive absence. After the interview I told BOYER to return to Sherbrooke and that I would call him back on the 7 or 8 March 1949.

The accused declines to cross-examine the witness: R.P. 83 (B) has been complied with.

F de S Robert Major
ZD-129 Major F.de S. ROBERT,
O.C. 4 Sec A&T Staff

QUESTION TO THE ACCUSED

Do you wish to make any Statement or 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.

ANSWER BY THE ACCUSED

Yes, I wish to make a Statement upon oath.

SD-61589 CQMS BOYER, M. No. 4 Section A&T Staff, having been duly sworn states:

For the last six months I have applied for a transfer or a discharge,and no definite answer was ever given to me. As I was going out of the army I needed to establish myself in civil life.I had to be out of the army before spring as in the business I am starting I need to be free from any responsibilities as far as the army is concerned. In my 35 days of absence I did establish my business which is "Pickling Business" under the name of SALOME ENRG. That can be checked at the Provincial Superior Court Registration Office.I was going to give myself up on April 11, 1949, to explain myself and get my civilian papers which are the only thing I need to obtain my license.

M. Boyer
SD-61589 CQMS BOYER, M.
No. 4 Sec A&T Staff

I certify that the foregoing Summary consisting of 4 pages was taken down by me in the presence of the accused at Montreal, this 9 day of April, 1949, and that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

J. Thériault

ZE-373 Capt. J.E.Y. THERIAULT
No. 4 Section A & T Staff

APPENDIX V

STATEMENT BY ACCUSED AS TO HIS REPRESENTATION
BY AN OFFICER AT THE TRIAL

I, SD-61589, CQMS Marcel BOYER, desire to have an officer assigned to represent me at my trial by court-martial.

I desire the services of ZK-231 Captain P.W. AYRE, No 5 Section A&T Staff CA(AF) if he is available.

signed at Montreal, Que. this 20th day of April 1949

M. Boyer
Signature

H.Q.C. 55-B-3586 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT DISTRICT COURT-MARTIAL

BLAIR, FRANCIS ROBERT SA.108628 PTE.

CONFIDENTIAL
H.Q.C. 55-B-3586

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					JAG NEW FILE CR 26-5-49		
JUN 16 1949	15-6-49	PA	KMcS	D Admin	B/ To note & PA	[illegible]	16/49

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices [illegible] opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

Reg. No. SA108628 Name BLAIR F R Corps RCA CA(AF) Date of enlistment or enrolment 12-2-47 Date of Birth Ram Alpine May

Signature O.C. Company, etc. ? ? ? ? ? ? ? ? ? Asst Administrative Officer

Sheet No. One of *1, 2, 3, 4, 5 21 Apr 49

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Brockville Ont	18May47	Pte		ABSENTING HIMSELF WITHOUT LEAVE from 2359 hrs 18 May 47 to 0150 hrs 20 May 47. Total time absent 1 dy, 1 hr, 5 mins. AA Sec 15 (1)	Cpl Grant Cpl Toye	7 days CB	20May47	Major S B McDonald	Forf 2 days pay

CERTIFIED TRUE COPY

E R Friel

(E R FRIEL) Capt & Adjt

Officer having custody of Regimental Records

THE ROYAL CANADIAN REGIMENT

19 APR 49

21 Eg.

M.F.M. 6—500M—4-45 (7234)
H.Q. 1772-39-1652

(P.T.O.)

Reg. No. A 108628 Name Francis Robert BLAIR Corps No 1 DD (AF) GEN LIST Date of enlistment or enrolment 26 Oct 43 Date of Birth

Signature O.C. Company, etc. (Sgd) D Webb Capt

Sheet No. of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
	26 Apr 44	-		PREVIOUS SHEET DESTROYED AFTER SIX MONTHS SERVICE - CASES OF DRUNKENNESS - "NIL"					
Ipperwash Ont	28 Feb 44	Pte		AWL from 1200 hrs 28 Feb 44 to 1800 hrs 1 Mar 44. Total absence 2 dys, 6 hrs. AA Sec ~~15~~ para(1)	Cpl Smithers (Doc'y)	7 dys CB	2Mar44	Maj G K MacAgy	FOP 3 dys pay FR&I 149
Nanaimo, BC	7May 44	Pte		A WL from 2200 hrs until 1645 hrs 8 May 44. Total absence: 16 hrs 45 mins AA Sec 15 (1)	RSM E A Clarke	Admonished	9May44	Lt Col R Richmond, MC	FOP 1 dys pay FR&I 149

CERTIFIED TRUE COPY

(E R FRIEL) Capt & Adjt

Officer having custody of Regimental Records

THE ROYAL CANADIAN REGIMENT

APR 49

4/21/49

M.F.M. 6—500M—4-45 (7234)
H.Q. 1772-39-165?

(P.T.O.)

Reg. No. A 108628 Name BLAIR F R Corps CIC Date of enlistment or enrolment 26 Oct 43 Date of Birth

Signature O.C. Company, etc. Sheet No. of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				Certified True Copy from MFM 4 (Orig MFM 6 not available)					
				CERTIFIED TRUE COPY					
				(E R FRIEL) Capt & Adjt					
				Officer having custody of Regimental Records					
				THE ROYAL CANADIAN REGIMENT					
				19 A PR 49					
				21 6					

M.F.M. 5—500M—4-45 (7234)
H.Q. 1773-39-1957

(P.T.O.)

HQC 55-B-3586 (JAG/O)

XXXXX



1 June 49

Headquarters, Central Command,
Ortona Barracks,
Oakville, Ont.

District Court-Martial
SA 108628 Pte Blair, F. R.

Receipt is acknowledged of your CC/SA 108628 (J) dated 23 May 49, enclosing proceedings of the m/n District Court-Martial.

2. These proceedings have been entered in our records as No. 47059 under date of 30 May 49.

WMWS

(W.M.W. Shaw) Lt.-Col.
for Judge Advocate General

WMWS/BR

Noted
Capt
for D Adm
1/6/49

H.Q. C.55-B-3586
M.D.

MEMORANDUM - DISTRICT COURT-MARTIAL

No. SA 108628 Name BLAIR, Francis Robert

Rank Pte Unit The Royal Canadian Regiment

Charge AA 15(1) - Absenting Himself Without Leave - Absent from 1800 hrs 20 May 47 to 1010 hrs 10 Apr 49 (Apprehended)

Date of Crime 20 May 1947

Date of Arrest 10 April 1949 Charge Signed 19 April 1949

Orders for D.C.M. 20 April 1949

Place and Date of Trial Brockville, Ontario, 21 April 1949

Sentence Detention for One Year; Stoppages $2.73

Date of Confirmation 14 May 1949

Date of Promulgation 17 May 1949

Entered in Records of J.A.G. as No. 47059

Date 30 May 1949

MEMO Accused found guilty of the charge;
12 days Detention remitted on Confirmation.

Recorded
3 Jun 49
1602
10 Adm.

W M W Shaw
Lt Col

for Judge Advocate-General

CC/ SA 108628 (J)

HEADQUARTERS CENTRAL COMMAND

Ortona Barracks,
OAKVILLE, Ont.

23 MAY 49

..... REGISTERED

Office of the Judge Advocate-General,
Dept. of National Defence,
OTTAWA, Ont.

Referred to JAG
MAY 28 1949
File 6.55-B-3586

DISTRICT COURTS-MARTIAL
SA 108628 PTE BLAIR FR

Herewith the marginally-noted District Court-Martial proceedings, for registration and custody.

2. No administrative action is deemed necessary by this Headquarters.

per J C Campbell Major
(C. Vokes) Major-General
G.O.C., Central Command

PROCEEDINGS

of

a

DISTRICT COURT MARTIAL

in the case of

SA 108628 Private Francis Robert BLAIR

of

THE ROYAL CANADIAN REGIMENT
CANADIAN ARMY (AF)

MEDICAL OFFICER'S REPORT

I certify that No. SA 108628 Pte. BLAIR F R

of RCR Cdn Army (AF) is in a fit state of health,

and fable to undergo Trial by Court martial.

R C Elliott Capt
Medical Officer
(R.C. ELLIOTT) Capt. RCAMC
Medical Officer
RCR Cdn Army (AF)

Station BROCKVILLE, Ontario

Date 21 Apr 49

M. F. B. 246

SBM—9-44 (5437)
H.Q. 1772-39-480

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

A

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

Proceedings of a District Court-Martial held at Brockville, On
on the 21 st day of April 19 49 by order of Brigadier
G Walsh, CBE, DSO Commanding Eastern Ontario Area.
dated the 16 day of April 1949

ZP 1483 Major R A McAlpine RCA President.
RCS of A (AA)

Members.

ZP 1230 Captain J E Coderre RC Sigs
RCS of S
ZA 1980 Captain A L Weirmier RCA
No 3 Section A & T Staff (9 A Tk Regt (SP)(ALI)RCA)

RAMcA
~~, Judge Advocate.~~

Trial of* SA 108628 Private Francis Robert BLAIR,
The Royal Canadian Regiment, Canadian Army (AF)

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.~~ RAMcA RAMcA RAMcA

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

The accused is brought before the Court.

Prosecutor,† ZB 3036 Lieutenant W Snell RCIC
The Royal Canadian Regiment
~~Counsel‡ or~~ defending officer†

ZC 517 Lieutenant T D Lafferty
The Royal Canadian Regiment

At 1000 hours the Trial commences.

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

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.

Q-1 *Question by the President to the accused.* Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

A-1 *Answer by accused.* No Sir

(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, Unit, Attachment (if any), and Appointment (if any).

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

‡ Qualification to be stated.

*I have satisfied myself that none of the officers detailed as members of this Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the charge ~~charges~~ before the Court-Martial.

(1) RAMcAlpine Maj
President DCM

(Strike out and initial when not applicable.)

Mil. Form B. 271
50M-3-43 (9036)
H.Q. 1772-39-224

V

B

Ramca

and

Ramca

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

The following officers under instruction, having been duly detailed, are duly sworn.

Q-2 **Do you object to Sgt Anderson of The Royal Canadian Regiment as shorthand writer?**

A-2 **No Sir (The shorthand writer is duly sworn.)**

The court having adjourned at 1030 hours the accused is again brought before it at 1330 hours.

Charge-Sheet

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

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

Ramca

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

Q-3 Is that your number, rank, name and unit? *Question to the accused.*

A-3 **Yes Sir** *Answer.*

Ramca

Q-4 Are you guilty or not guilty of the ~~[first]~~ charge against you, which you have heard read? *Question to the accused.*

A-4 **Guilty Sir.** *Answer.*

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

Answer.

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

Ramca

Answer.

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

Answer.

Ramca

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 Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

B2 3

R A McAlpine Major
President DCM
21 Apr 49

CHARGE SHEET

The accused, SA 108628 Private Francis Robert BLAIR, The Royal Canadian Regiment, a soldier of the Canadian Army (Active Force), is charged with:-

ABSENTING HIMSELF WITHOUT LEAVE

Charge
Sec 15(1)
Army Act

in that he

at BROCKVILLE, Ontario, at 1800 hrs 20 May 47, absented himself without leave from The Royal Canadian Regiment until he was apprehended by SD 135946 Cpl Lampitt, J I, of the Canadian Provost Corps at Montreal, Quebec, at 1010 hrs, 10 Apr 49. Total time absent 690 days, 16 hrs, 10 mins. Cost of apprehension and return to his Corps $2.73.

(R C LIDDELL) Major
T/Commanding
THE ROYAL CANADIAN REGIMENT

BROCKVILLE, Ontario

19 APR 49

TO BE TRIED BY DISTRICT COURT-MARTIAL

(G Walsh) Brigadier
Commander
Eastern Ontario Area

KINGSTON Ontario
20 APR 49

(This page to be removed from proceedings when plea to all charges is Not Guilty.) 5

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded 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.]~~ Rama Rama Rama

The accused **SA 108628 Private Francis Robert BLAIR The Royal Canadian Regiment**

is found guilty of **the charge**

*The summary ~~(or abstract)~~ Rama of evidence is read, marked **"G"** signed by the President, and attached to the proceedings.

Q-5 *Question to the accused.* Do you wish to make any statement in mitigation of punishment?

A-5 *Answer.* The accused in mitigation of punishment ~~says~~ Rama

~~I~~ Rama hands in a written statement, which is read, marked **"H"**, signed by the President, and attached to the proceedings.]

Rama

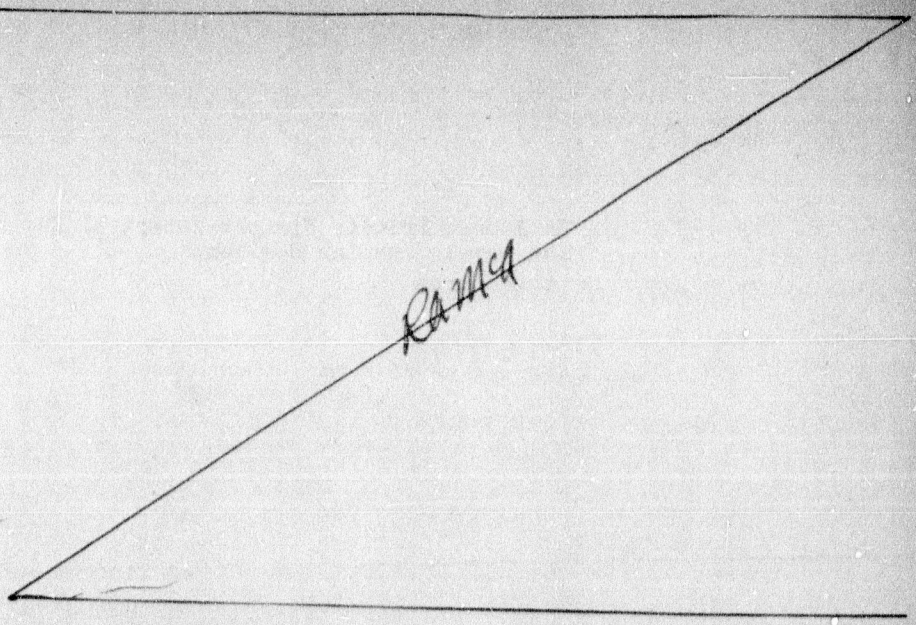
*If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

Instruction.

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.

6

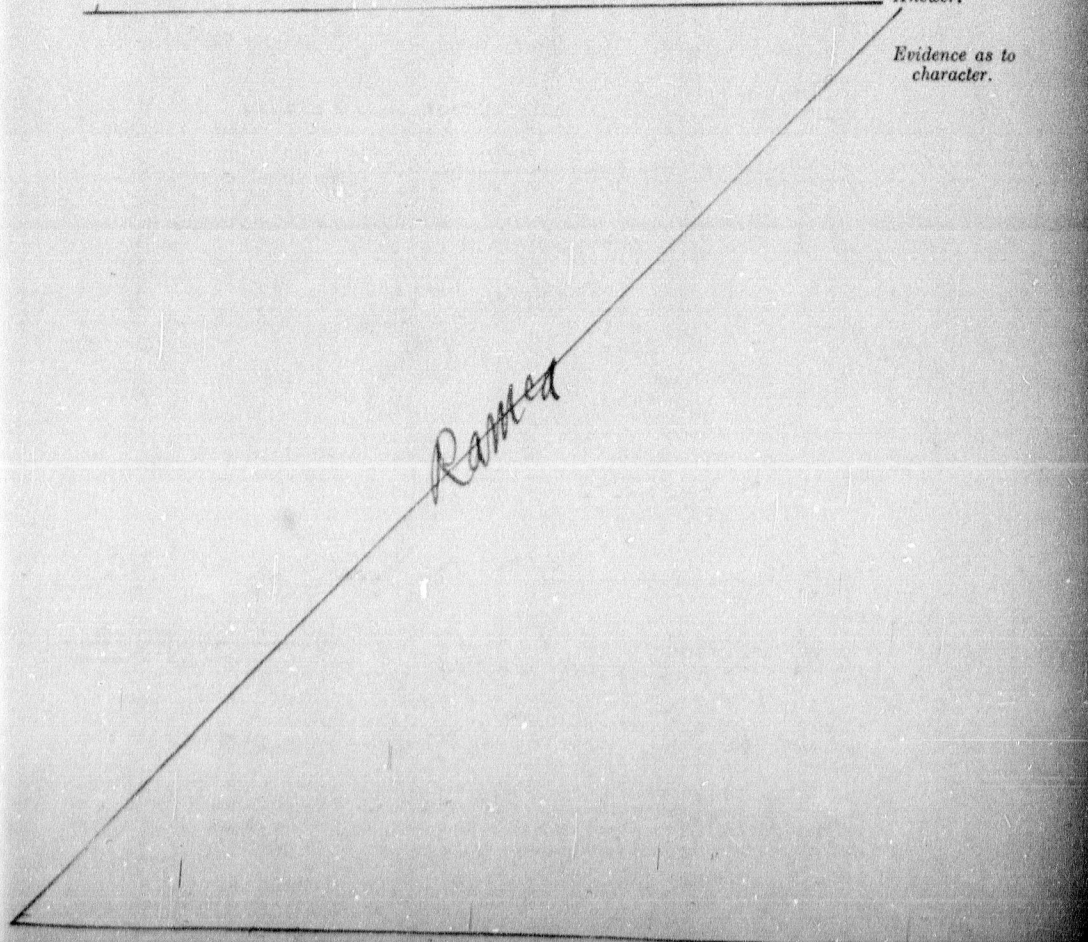
DD



Q-6 Do you wish to give evidence yourself or to call any witnesses as to character? *Question to the accused.*

A-6 No Sir *Answer.*

Evidence as to character.



E

Finding*

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

~~The Court is closed for the consideration of the finding.~~

The Court find that the accused

RAMCA

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

Proceedings on Conviction *before Sentence*

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

Evidence of character, etc.

ZB 3036 Lieuteant W Snell, RCR RCIC is duly sworn.

Q-7 *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.* **Yes Sir. I produce in evidence MFB 355 and Conduct Sheet MFM 6.**

A-7

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked **"Y"**, signed by the President, and annexed to the proceedings. **MFM 6 is marked "Z", signed bythe President, and attached to the proceedings.**

Q-8 *Question by the President.*

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

A-8

Q-9 *Question.*

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

A-9

Q-10 *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?

A-10

Answer. **They Are Sir.**

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

Cross-examined by the Defending Officer (accused) (Counsel for the accused). **THE DEFENDING OFFICER DECLINES TO CROSS EXAMINE**

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

Q-11 *Question to the accused.*

Do you wish to address the Court?

A-11 *Answer.*

Yes Sir through my Defending Officer. The address of t Defending Officer is marked "J" signed by the President an attached to the proceedings.

The Court is closed for the consideration of the sentence.

(5) READ IN OPEN COURT

RAMCA

4

F

Sentence

DETENTION FOR 1 Year

BLAIR Sentence.

The Court sentence the accused SA108628 Private Francis Robert of The Royal Canadian Regiment, Canadian Army (Active Force) To undergo detention for ~~a period of~~ one year and to be placed under stoppage of pay until he has made good the sum of $2.73 in respect of costs of apprehension and return to his unit.

Ranks

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

The sentence is announced in open Court. The sentence is announced as being subject to confirmation.

Signed at Brockville, Ontario this 21st day of APRIL 1949.

R A McAlpine

(R A McAlpine) Major
President DCM

I confirm the finding and sentence of the Court, but remit 12 days of the period of detention.

G Walsh.

(G Walsh) Brigadier
Commander
Eastern Ontario Area

Signed at Kingston, Ontario

this 14 day of May 1949.

Extracts entered as No. 4703'9 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 30th day of May 1949

Promulgated and extracts taken at Brockville, Ontario this 17th day of May 1949

Lt Johnston Capt & Adjt.

"X"

RAMcAlpine
President DCM
21 Apr 49

Orders by BRIGADIER G WALSH CBE DSO Commanding

the Eastern Ontario Area

District Court-Martial

SB 163356 Private Jack James COPELAND
The Royal Canadian Regiment
SA 108628 Private Francis Robert BLAIR
The Royal Canadian Regiment

16th April 1949

The detail of Officers as mentioned below will assemble

at The Royal Canadian Regiment on Thursday
Brockville, Ontario

the 21st day of April 1949 at 1000 hours

for the purpose of trying by a District Court-Martial the accused person (persons) named in the margin (and such other person or persons as may be brought before them).

PRESIDENT

ZP 1483 Major R A McAlpine RCA
RCS of A (AA)
is appointed President.

MEMBERS

ZP 1230 Captain J E Coderre RC Sigs
RCS of S
ZA 1980 Captain A L Weirmier RCA
No 3 Section A & T Staff (9 A Tk Regt (SP)(ALI) RCA)

WAITING MEMBERS

ZP 1641 Captain J P Cook RCIC
The Royal Canadian Regiment
ZB 233 Lieutenant J H Bennett RCIC
The Royal Canadian Regiment

JUDGE ADVOCATE

[redacted]

For SA108628
Pte BLAIR F R
ZB3036 Lt W Snell
RCR, RCIC

For SB163356 Pte COPELAND JJ
PROSECUTOR
ZD 691 Lieutenant W T M Edwards RCIC
Prosecutor. The Royal Canadian Regiment
(is hereby) appointed

For SA108628
Pte BLAIR F R
ZC 517 Lt
T D Lafferty
RCR, RCIC.

For SB 163356 Pte COPELAND JJ
DEFENDING OFFICER
ZP 2328 Captain R A Couche RCIC
Defending Officer. The Royal Canadian Regiment
(is hereby) appointed

The accused will be warned and all witnesses duly required to attend.

The Officer Commanding The Royal Canadian Regiment will arrange for the necessary accommodation, stationery, court orderly, escort, shorthand writers, and interpreters.

The proceedings will be forwarded to AA & QMG HQ E Ont Area

Signed this 16th day of April 1949

M.F.B. 220
A.F.A. 47
25M—7-43 (1152)
H.Q. 1772-39-564

Lt Speedie Maj DAMG
for (G Walsh) Brigadier
Commander
Eastern Ontario Area

"G" 11

R A McAlpine 2nd Lt
President DCM
21 Apr 49

SUMMARY OF EVIDENCE

in the case of

SA 108628 Private Francis Robert BLAIR, The Royal Canadian Regiment, a soldier of the Canadian Army (Active Force).

CHARGE:-

ABSENCE WITHOUT LEAVE

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

FIRST WITNESS

ZP 1237 Captain E R FRIEL, The Royal Canadian Regiment, having been duly sworn states:-

I am the Adjutant of The Royal Canadian Regiment. In this capacity I have custody of the Record of Declarations of Courts of Inquiry on Illegal Absence of Soldiers (Militia Book 68). I produce in evidence therefore a certified true copy of an extract from this Militia Book relating to the Absence Without Leave of the accused person whom I recognize as SD 108628 Private Francis Robert BLAIR. In addition I also produce in evidence a certificate in accordance with Army Act Sec 163 (1)(j) relating to the apprehension of the accused and a copy of the Costs of Apprehension incurred in effecting the return of the accused to this unit.

The accused declines to cross-examine.

(E R FRIEL) Captain
THE ROYAL CANADIAN REGIMENT
Cdn Army (AF)

Question to the accused:-

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.

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 Brockville Military Camp, BROCKVILLE, Ontario, this 19 th day of April 1949.

(W SNELL) Lt
THE ROYAL CANADIAN REGIMENT
Officer detailed to prepare Summary of Evidence.

Appendix "A"

12

RECORD of the Declaration of a Court of Inquiry assembled at BROCKVILLE, Ontario on the 16th day of June 1947, 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. SA 108628 Pte BLAIR R F

DECLARATION

The Court declare that No. SA 108628 (Regt'l No.) Private (Rank)

Robert Francis BLAIR (Full Name) The Royal Canadian Regiment (Unit)

illegally absented himself without leave from The Royal Canadian Regiment, Cdn Army (A F

at BROCKVILLE, Ont (Place) at 1800 hours on the 20th day of May 1947,

that he is still so absent, and that on the 16 Jun 47 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE		ARTICLES		VALUE	
Badges Cap RCR	(1)		07	Blouses B.D.	(1)	6	50
Trousers B.D.	(2)	6	55	Boots Ankle	(1)	5	82
Brush Button	(1)		17	Beret Khaki	(1)	1	20
Coats Top	(1)	6	91	Combs Hair	(1)		04
Drawers C.S.	(1)		42	Gloves Woollen prs	(1)		66
Mitts Pullover prs	(1)		93	Putties Short prs	(1)		53
Shirts K.C.	(3)	1	95	Socks Army prs	(1)		46
Socks Black prs	(1)		28	Towels Hand	(1)		31
Braces Lt	(1)		35	Pack	(1)	2	26
Straps SH Haversack1 L	(1)		31	Sheets G.S.	(2)	2	66
" " " 1 R	(1)		31	Slips Pillow	(1)		35
				TOTAL		49	49

G W Graham (G W GRAHAM) (Name) Lt (Rank) R.C.R. (Unit) President

sole member (Name) (Rank) (Unit) Member

Signed at BROCKVILLE, Ontario

this 16th day of June 1947 (Name) (Rank) (Unit) Member

J M Houghton (J M HOUGHTON) (Name) Lt.Colonel (Rank) R.C.R. (Unit)

Signature of Commanding Officer

Certified true copy E R Friel (Name) (Rank) (Unit)

(E R FRIEL) Capt (Signature of Officer having custody of original record) RCR, Cdn Army (AF)

19 APR 49

M.F.B. 375
A.F.B. 115
200M—1-44 (3576)
H.Q. 1772-39-257

Appendix "B"

(Apprehension by Service Authorities)

I, MAJOR (Rank) C.O. ROCHON (Name) C Pro APM Que Comd. (Unit)
(Number)

hereby certify that SA 108628 (Number) Pte (Rank) BLAIR, Francis Robert (Name in full)

of the R.C.R. Brockville, Ont.
(Unit and attachment, if any)

was apprehended by SD 13[illegible]8 (Number) Cpl (Rank)

LAMPITT, J.I. (Name) "B" Section C Pro C. (Unit or appointment)

at Montreal, Que (Place) at 10.10 (Hour)

on the 10 day of April 19 49

(Strike out) as a deserter ([illegible]), and that at the time of his arrest he was wearing [illegible] (dressed in civilian clothes).
words not applicable)

Dated at Montreal, Que this 11 day of April 19 49

C.O. Rochon
(C.O.ROCHON) Major, A.P.M., Quebec Command.
(Signature, Number, Rank, Unit or appointment)

17

PART II ORDERS

THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)

ISSUED BY

LT.COL. J.M. HOUGHTON, OBE

Officer Commanding

Order No. 83
Dated 26 May 47
BROCKVILLE, Ontario

(Last Order Issued No 82 d/23 May 47)

6. ABSENT WITHOUT LEAVE

(d)AWL from 1800 hrs 20 May 47
still absent 1800 hrs 21 May 47
(1st dy)

SA 108628	PTE	BLAIR	F R	CIC	20 MAY 47

SGD: E R FRIEL

(E R FRIEL) CAPT & ADJT
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, ONTARIO

CERTIFIED TRUE EXTRACT

(E R FRIEL) CAPT & ADJT
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, ONTARIO
19 APR 49

PART II ORDERS

THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)

ISSUED BY

LT.COL. J.M. HOUGHTON, OBE

Officer Commanding

Order No. 86
Dated 29 May 47
BROCKVILLE, Ontario

(last Order Issued No 85 d/28 May 47)

4. ABSENT WITHOUT LEAVE

(b)AWL from 1800 hrs 20 May 47 still
absent 1800 hrs 28 May 47
(8th dy)

SA 108628 PTE BLAIR F R CIC 20 MAY 47

SGD: E R FRIEL

(E R FRIEL) CAPT & ADJT
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, ONTARIO

CERTIFIED TRUE EXTRACT

E R Friel

(E R FRIEL) CAPT & ADJT
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, ONTARIO
19 APR 49

21

PART II ORDERS

THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)

ISSUED BY

LT.COL. J.M. HOUGHTON, OBE

Officer Commanding

Order No 96
Dated 11 Jun 47
BROCKVILLE, Ontario

(Last Order Issued No 95 d/10 Jun 47)

5. ABSENT WITHOUT LEAVE

(a)AWL from 1800 hrs 20 May 47 still absent 1800 hrs 12 Jun 47 (22nd dy)

SA 108628 PTE BLAIR F R RCIC 20 MAY 47

SGD: E R FRIEL

(E R FRIEL) CAPT & ADJT
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, ONTARIO

CERTIFIED TRUE EXTRACT

E R Friel

(E R FRIEL) CAPT & ADJT
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, ONTARIO
19 APR 49

23

PART II ORDERS

THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)

ISSUED BY

LT.COL. J.M. HOUGHTON, OBE

Officer Commanding

Order No 101
Dated 17 Jun 47
BROCKVILLE, Ontario

(Last Order Issued No 100 d/16 Jun 47)

7. STRENGTH DECREASE

(a) SOS having been decl illegally absent from 1800 hrs 20 May 47 by a Ct Inq held 16 Jun 47. Deficiencies of Kit to the value of $49.49.

SA 108628 PTE BLAIR F R RCIC 16 JUN 47

SGD: E R FRIEL

(E R FRIEL) CAPT & ADJT
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, ONTARIO

CERTIFIED TRUE EXTRACT

(E R FRIEL) CAPT & ADJT
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, ONTARIO
19 APR 49

PART II ORDERS

BY

LT.COLONEL P R BINGHAM

THE ROYAL CANADIAN REGIMENT

Canadian Army (AF)

Order No. 40
d/ 19 Apr 49
BROCKVILLE, Ontario

(Last Order Issued No 39 d/13 Apr 49)

3. STRENGTH INCREASE

(a) Having been SOS The Royal Canadian Regiment by Ct of Inq 16 Jun 47 TOS Regimental Rate of Pay Pte (First Class) on apprehension by C Pro C at MONTREAL, Quebec

Cost of Apprehension

Single ticket Montreal to Brockville	$2.73
Total cost of apprehension	$2.73

SA 108628 PTE BLAIR F R RCIC 10 APR 49

SGD E R FRIEL
(E R FRIEL) Capt & Adjt
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, Ontario

CERTIFIED TRUE EXTRACT
E R Friel
(E R FRIEL) CAPT & ADJT
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, Ontario
19 APR 49

I, SA 108628 Private Francis Robert BLAIR, desire to have an officer assigned to represent me at my trial by Court Martial.

(I desire the services of ZC 517 Lt T D Lafferty, RCR, if he is available.

F R Blair

(SA 108628 Pte BLAIR FR)

19 APR 49

"H" 29

Ramcalpin Maj
President DCM
21 Apr 49

STATEMENT OF SA-108628 PTE BLAIR R F

SIR:

I w as granted a pass on the weekend 18/19 May 47 and went home to Montreal. Whilst I was home and on the night of 19 May 47, I had an argument with my brother & father over the financial assistance that we were giving my mother. My father had been drinking quite a lot and the argument got very heated and he claimed that I owed him about three hundred dollars to help support the house. I told him that I had assigned money to my mother all the time that I was in the Army but this only made the argument more severe. I was supposed to return to the Unit on this night but if I had left at that time and not settled this question of money, it is probable that my father and I would never have spoken to each other again and the family would have been broken up. This had already occurred once before with one of my other brothers over money and I did not want it to happen again. Consequently I overstayed my leave one day to settle this matter. When I returned to the Unit I was charged with Absence Without Leave, and the Investigating Officer when I told him my reasons for being absent were due to family troubles, didn't ask me any of the detaile, and awarded me seven days CB. In view of the circumstances I thought this punishment very unfair and it added to the "drowned of feeling" that I had since I had done nothing but fatigues from the time of my joining the Unit. To add to my very low morale, after I had got my equipment from the Quarter Master and whilst getting it in shape for the defaulters parade that evening, one of the Company NCO's kept hounding me and saying that I would be in more trouble if my equipment wasn't correct for defaulters parade. I only had an hour or so to do this and I thought that if I did go on defaulters parade with the equipment as it was that I would be on charge again. By this time I was so discouraged and fed-up that I did not care what happened and decided to go absent.

F.R. Blair

(SA-108628 PTE BLAIR F R)

"J" 31

Ramsay Maj
President DCM
21 Apr 49

PLEA IN MITIGATION SA-108628 PTE BLAIR F R

In deciding the sentence to be awarded to this soldier, I ask the Court to consider his statement ~~of truth~~ as some indication of extenuating circumstances, and possible provocation.

In his statement, Blair has said that his family affairs were the cause of his not returning from week-end, and yet, the Investigating Officer refused to consider these personal circumstances and awarded a punishment of 7 days CB. Naturally, Blair felt that this punishment was excessive. Blair has also said that his morale at this time was very low due to his being employed as a fatigue since joining the Unit, and to add to his low morale and his sense of unfairness, one of the Company NCO's bullied him with threats of further punishment if his equipment wasn't in proper shape for Defaulters' Parade.

By this time, Blair's morale was so low and he was so disheartened and discouraged that he decided to go absent not thinking of the consequences.

I contend that the sense of unfairness that Blair felt on being awarded seven days CB and the subsequent bullying of the NCO were definitely provocative to his going absent. Until these two instances occurred Blair had no intentions of going absent or why would he have returned to the Unit only to go absent again the next day? Once he went absent, it took some time for him to realise the seriousness of his actions, and once he did, the fear of the consequences prevented his returning to the Unit.

I ask the Court to also consider the past service of this soldier. He served during and after the War 39-45 and saw action in France with the Essex Scottish. During his entire service, there were only three entries made to his MFM 6, and these were all for minor instances of absence.

Therefore I ask the Court in view of the above circumstances, to show some leniency in awarding punishment to this soldier.

T D Lafferty Lt.

) (T D LAFFERTY) Lt
Defending Officer

Ramcalpe Wing
Pres DCM 21 Ap

M.F.B. 355
5034—6-45 (7476)
H.Q. 1772-39-420
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
SA 108628	Private	Francis Robert BLAIR	R.C.R.

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

	Within last 12 months	Since enlistment or appointment
For	Sec 15(1) AA AWL Nil times	Sec 15(1) AA AWL 1 times
For	times	times
For	times	times
For	times	times

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

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

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

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

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

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

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

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 11 days in military custody, making a total of 11 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 23 yrs, 4 mths

6. The date of his ~~commission~~ attestation ~~enrolment~~ specified in his ~~record of service~~ ~~enrolment and~~ attestation paper is 12 Feb 47

7. The service which the accused is allowed to reckon towards discharge is 3 mths, 8 dys

8. The accused is entitled to reckon 2 yrs, 8 mths, 11 dys service for the purpose of determining his pension, etc.

9. The accused ~~is in possession of or entitled to no air force decoration, or air force reward (or~~ military military is in possession of or entitled to). State any ~~air force~~ military decoration or reward. France-Germany Medal CVSM & Clasp 1939-45 War Medal

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

3A

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

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

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

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

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

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

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 21 day of APRIL 1949 (E R FRIEL) Capt
Adjt RCR, Cdn Army (AF)

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.

H.Q.C. 55-B-3587 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT DISTRICT COURT-MARTIAL

BURTON, CHAS. ROBERT SA.3585 PTE.

CONFIDENTIAL
H.Q.C. 55-B-3587

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
		(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")					
				JAG	NEW FILE	CR	26-5-49
				D Pers			16/49
				JAG	Minute p6	N.W.S	9 Jun
JUN 17 1949	16/6/49	PA		D Admin	To note & PA		15/6/49
JUN 21 1949	24/6/49	PA		JAG	WITH PAPERS CR JUN 22 1949		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HEADQUARTERS CENTRAL COMMAND

CC/SA 3585 (J)

Ortona Barracks,
OAKVILLE, Ontario.
17 JUN 49

Referred to.....
JUN 20 1949
File No. C 55-B-3587
Chgd to.....

Office of the Judge Advocate General,
Dept. of National Defence,
OTTAWA, Ontario.

DISTRICT COURT-MARTIAL
SA 3585 PTE BURTON CR

(1)

Reference this Headquarters' letters, file no. as above, dated 23 May 49 and 10 Jun 49.

2 May receipt of the marginally-noted District Court-Martial proceedings now be acknowledged.

J.C. Campbell Major
for (C. Vokes) Major-General
G.O.C., Central Command

(11)

File:-
Done one folio down
WMWS
DJAG

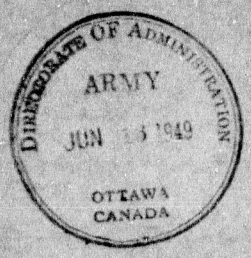
CR

This letter should be placed on HQC 55-B-3587 and then referred to JAG for action.

I.G. McShane Capt
for D Adm 22/6/49

HQC 55-B-3587 (JAG/O)

XXXXX
Office of the Judge Advocate General



15 Jun 49

Headquarters, Central Command,
Ortona Barracks,
Oakville, Ont.

District Court-Martial
SA 3585 Pte Burton, C.R.

Receipt is acknowledged of your CC/SA 3585 (J) dated 10 Jun 49, enclosing proceedings of the s/n District Court-Martial.

2. These proceedings were entered in our records as No. 47060 on 30 May 49.

(W.M.W. Shaw) Lt.-Col.
for Judge Advocate General

H.Q. C.55-B-3587
M.D.

MEMORANDUM - DISTRICT COURT-MARTIAL

No. SA 3585 Name BURTON, Chas. Robert

Rank Pte Unit The Royal Canadian Regiment

Charge AA 15(1) - Absenting Himself Without Leave - Absent from 1600 hrs 2 Nov 47 to 1100 hrs 22 Apr 49 (Surrendered)

Date of Crime 2 November 1947

Date of Arrest 22 April 1949 Charge Signed 25 April 1949

Orders for D.C.M. 3 May 1949

Place and Date of Trial Barriefield, Ontario, 6 May 1949

Sentence One Hundred And Eighty Days Detention

Date of Confirmation 16 May 1949

Date of Promulgation 17 May 1949

Entered in Records of J.A.G. as No. 47060

Date 30 May 1949

MEMO Accused found GUILTY of the charge;
15 Days Detention Remitted on Confirmation.

Recorded
16 Jun 49
1600
19 adm.

W M W Shaw
Lt Col

for Judge Advocate-General

Referred to .....
JUN 18 1949
File No .....
Case .....

HEADQUARTERS CENTRAL COMMAND,

CC/SA 3585 (J)

Ortona Barracks,
OAKVILLE, Ontario.

10 JUN 49

Office of the Judge Advocate General,
Dept. of National Defence,
OTTAWA, Ont.

DISTRICT COURT-MARTIAL
SA 3585 PTE BURTON CR

Further to this Headquarters' letter, file no. as above, dated 23 May 49.

2 May receipt of the marginally-noted proceedings now be acknowledged.

for (C. Vokes) Major-General
G.O.C., Central Command

RECEIVED
JUN 13 1949
Pers Registry

In reply quote No. HQC 55-B-3587 (Pers RC Sigs)

DEPARTMENT OF NATIONAL DEFENCE
ARMY
INTER-OFFICE CORRESPONDENCE

In Reply To HQC 55-B-2587 (JAG/O)
Dated 1 Jun 49

8 Jun 49

JAG

74572 Major R. White, Royal Signals

1 Reference your memorandum next folio below.

2 Major White was NOT granted a commission in the Canadian Army during his tour of duty in Canada, nor was any order issued authorizing his attachment under the Visiting Forces (British Commonwealth) Act.

3 This officer served in Canada at the Royal Canadian School of Signals on a reciprocal agreement with the War Office, in which an officer of the Canadian Army (AF) served with the British Army. The basis of this "exchange" is set forth in SD 1 Letter No 3779 dated 31 Jan 49.

W. W. Leon-Smith
(AG Cherrier)
Colonel
D Pers

WOP/4628/gjb 15/6/49

File:-
By PC 3634 of 27 Aug 46 and British Army order 43/44 this officer is subject to Canadian military law.
W.W.L.S.
D JAG.

M.F.A. 1225
1,000M—3-48 (9995)
H.Q. 1772-39-2009

In reply quote No. HQC 55-B-3587 (JAG/O)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

INTER-OFFICE CORRESPONDENCE

Office of the Judge Advocate General

OTTAWA, 1 June 49

To:

D Pers

74572 Major R. White, Royal Signals.

The m/n sat as President of a District Court-Martial for the trial of SA 3585 Pte Burton, C.R.

2. Will you please advise me if Major White has been granted a commission in the Canadian Army or whether he has been made available to and attached by the Governor-in-Council to the Canadian Army under the provisions of the Visiting Forces (British Commonwealth) Act. If attached under The Visiting Forces Act, will you kindly make reference to the orders authorizing such attachment.

3. If not commissioned in the Canadian Army, or attached as aforesaid, will you advise me of his status at the Royal Canadian School of Signals.

W.M.W. Shaw

WMWS/BR
4923

(W.M.W. Shaw) Lt.-Col.
Deputy Judge Advocate General

M.F.V. 1325
1,000M—3-43 (9925)
H.Q. 1772-39-2009

CC/SA 3585 (J)

HEADQUARTERS CENTRAL COMMAND

Ortona Barracks,
OAKVILLE, Ont.

..... REGISTERED

23 MAY 49

Office of the Judge Advocate-General,
Dept. of National Defence,
OTTAWA, Ont.

Reg... JAG
MAY 26 1949
File No. 6.55-B-3587
Class...

DISTRICT COURTS-MARTIAL
SA 3585 PTE BURTON CR

Herewith the marginally-noted District Court-Martial proceedings, for registration and custody.

2. No administrative action is deemed necessary by this Headquarters.

for J C H Campbell Major
(C. Vokes) Major-General
G.O.C., Central Command

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

A

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

Proceedings of a District Court-Martial held at Barriefield, Ontario on the 6th day of May 1949 by order of Brigadier G. Walsh, CBE, DSO Commanding Eastern Ontario Area dated the 3rd day of May 1949

74572, Major R. White, Royal Signals President.
Royal Canadian School of Signals

Members.

ZP 1641 Captain J.P. Cook,
Royal Canadian Infantry Corps
The Royal Canadian Regiment.

ZB 2050 Captain H.E. McLaughlin
Royal Canadian Electrical and Mechanical Engineers
Royal Canadian Electrical and Mechanical Engineers' School

Trial of* SA 3585 Private Charles Robert BURTON, The Royal Canadian Regiment, Canadian Army (Active Force).

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

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

The accused is brought before the Court.

Prosecutor,† ZC 3120 Lieutenant L.W.G. Hayes, The Royal Canadian Regiment
Counsel for defending officer†
ZB 3036 Lieutenant W. Snell, The Royal Canadian Regiment

At 1430 hours the Trial commences.

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

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.

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

Answer by accused. A1 No. Sir.

(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, Unit, Attachment (if any), and Appointment (if any).

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

‡ Qualification to be stated.

(Strike out and initial when not applicable.) *I have satisfied myself that none of the officers detailed as members of this Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the charge before the Court-Martial.

(1)

PRESIDENT, RCM.

Mil. Form B. 271
50M-3-43 (9036)
H.Q. 1772-39-224

B

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

The following officers under instruction, having been duly detailed, are duly sworn.

ZU 2220 Major G.W. Holbrook, Royal Canadian School of Signals
ZP 1279 Captain D.B. Warner, Royal Canadian School of Signals
ZA 3129 Lieutenant A.S.J. Bake, The Royal Canadian Regiment.

Q2 Have you any objection to SB83134 Sgt Kingdon, A.S., Royal Canadian School of Signals as Shorthand Writer?
A2 None, Sir. (The Shorthand Writer is duly sworn).

Charge-Sheet

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

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

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

Q3 Is that your number, rank, name and unit? *Question to the accused.*

A3 Yes Sir. *Answer.*

Q4 Are you guilty or not guilty of the ~~ZZZZ~~ charge against you, which you have heard read? *Question to the accused.*

A4 Guilty *Answer.*

~~ZZZZZ~~

~~ZZZZZ~~

~~ZZZZZ~~

~~ZZZZZ~~

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 Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

"B2"

PRESIDENT DCM

CHARGE SHEET

The accused, SA 3585 Private Charles Robert BURTON, The Royal Canadian Regiment, a soldier of the Canadian Army (Active Force) is charged with:-

Charge
Sec 15 (1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Brockville, Ontario, at 1600 hrs 2 Nov 47 absented himself without leave from The Royal Canadian Regiment until he surrendered himself to RCMP authorities in St. Catherines, Ontario at 1100 hrs 22 Apr 49. Total time absent 536 days 19 hrs. Cost of apprehension and return to his Corps $6.33.

(R G LIDDELL) Major
T/Commanding,
THE ROYAL CANADIAN REGIMENT

BROCKVILLE, Ontario.
25 APR 49

TO BE TRIED BY DISTRICT COURT-MARTIAL

(G Walsh) Brigadier
Commander
Eastern Ontario Area

KINGSTON Ontario
3 MAY 49

(This page to be removed from proceedings when plea to all charges is Not Guilty.)

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

The accused SA 3585 Private Charles Robert BURTON, The Royal Canadian Regiment, Canadian Army (Active Force) is found guilty of the charge

*The summary of evidence is read, marked "G" signed by the President, and attached to the proceedings.

Question to the accused. Q5 Do you wish to make any statement in mitigation of punishment?

A5 I do, Sir.

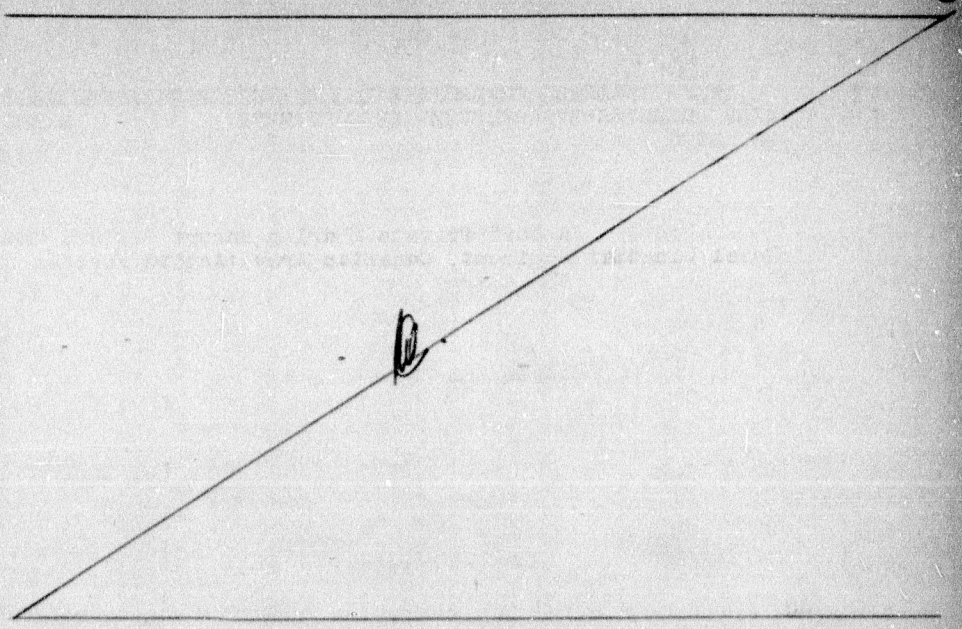
Answer. The accused in mitigation of punishment says:—

(Statement of Accused in mitigation of punishment is marked "H" and signed by the President).

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.

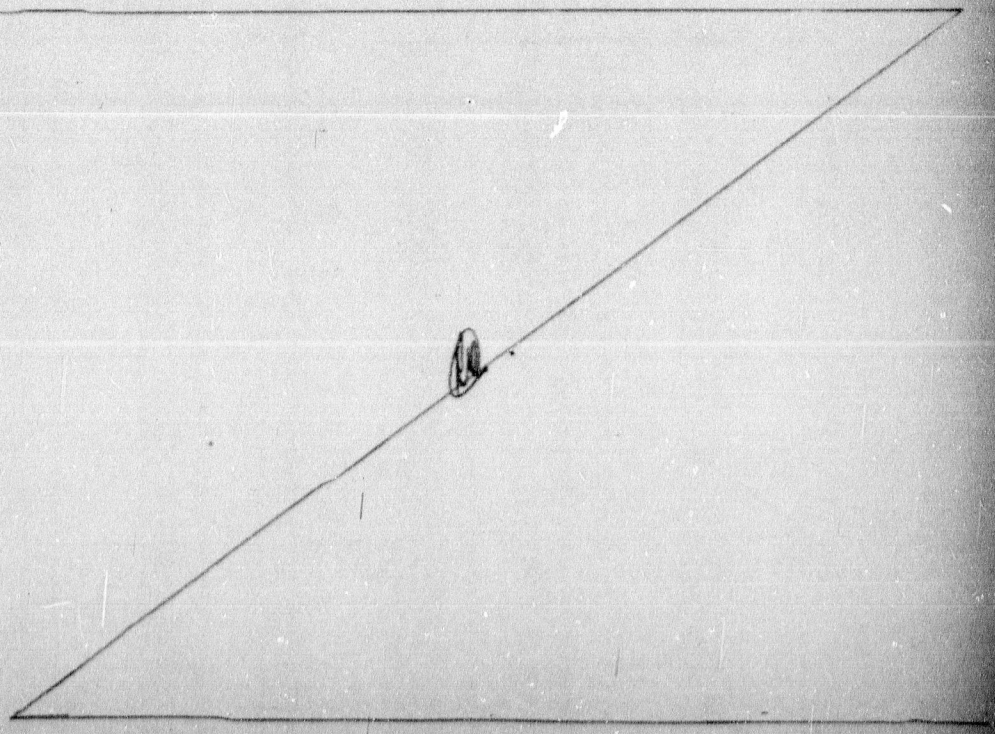
DD



Q6 Do you wish to give evidence yourself or to call any witnesses as to character? *Question to the accused.*

A6 Yes Sir, I wish Lieutenant L. Leonard *Answer.*

(Evidence of Witnesses as to character is marked "J" signed by the President and attached to these Proceedings). *Evidence as to character.*



E

*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~~

Proceedings on Conviction *before Sentence*

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

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

Evidence of character, etc.

ZC 3120 Lieutenant L.W.G. Hayes, The Royal Canadian Regiment, Canadian Army (Active Force) is duly sworn.

Question by the President.

Q15 Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

A15 Yes, Sir

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

Question by the President.

Q16 Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

A16 Yes, Sir

Question.

Q17 Have you compared the contents of the above statement with the regimental books? *Answer.*

A17 Yes, Sir

Question.

Q18 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.*

A18 Yes, Sir

~~Cross-examined by the Defending Officer (accused).~~

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

Defending Officer declined to cross-examine.

Question to the accused.

Q19 Do you wish to address the Court?

Answer.

A19 Yes Sir. (Statement of Defending Officer's Address is marked "L", signed by the President and attached to these Proceedings.

The Court is closed for the consideration of the sentence.

F

Sentence

The Court sentence the accused SA 3585 Private Charles Robert BURTON, The Royal Canadian Regiment, Canadian Army (Active Force) to undergo detention for one hundred and eighty days.) *Sentence.* 180 days' detention.

ANNOUNCEMENT OF SENTENCE

The Court being reopened, the Accused is again brought before it.

The sentence is announced in open court; the sentence is announced as being subject to confirmation.

KINGSTON, Ontario, this 6th day of May, 1949.

[signature] major
PRESIDENT DCM

I Confirm the finding and sentence of the Court but remit 15 days detention.

[signature]
(G Walsh) Brigadier
Commander
Eastern Ontario Area

Signed at Kingston, Ontario,
this 16th day of May 1949.

Promulgated and extracts taken at Brockville Ontario this 17th day of May 1949

[signature] Capt & Adjt.

Extracts entered as No. 47060 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 30th day of May 1949 [initials]

-9-

"X"

[signature] major
PRESIDENT DCM

Orders by Brigadier G Walsh CBE DSO Commanding

the Eastern Ontario Area

District Court-Martial
SA 3585 Private Charles Robert BURTON
The Royal Canadian Regiment

3rd MAY 1949

The detail of Officers as mentioned below will assemble

at RCEME School on Friday
Barriefield, Ontario
the 6th day of MAY 1949 at 1000 hours
for the purpose of trying by a District Court-Martial the accused person (persons) named in the margin (and such other person or persons as may be brought before them).

PRESIDENT

74572 T/Major R White Royal Signals
Royal Canadian School of Signals is appointed President.

MEMBERS

ZP 1641 Captain J P Cook RCIC
The Royal Canadian Regiment
ZB 2050 Captain H E McLaughlin RCEME
RCEME School

WAITING MEMBERS

ZP 1602 Captain C G Provan RCEME
RCEME School
ZA 3129 Lieutenant A S J Bake RCIC
The Royal Canadian Regiment

JUDGE ADVOCATE

- - - - ~~has been (is hereby) appointed Judge Advocate~~

PROSECUTOR

ZC 3120 Lt L W G Hayes RCIC ~~has been~~ (is hereby) appointed Prosecutor. The Royal Canadian Regiment

DEFENDING OFFICER

ZB 3036 Lt W Snell RCIC ~~has been~~ (is hereby) appointed Defending Officer. The Royal Canadian Regiment

The accused will be warned and all witnesses duly required to attend.

The Officer Commanding The Royal Canadian Regiment will arrange for the necessary ~~accommodation, stationery, court orderly~~, escort, shorthand writers, and interpreters.

The proceedings will be forwarded to AA & QMG HQ E Ont Area

Signed this 3rd day of MAY 1949

M.F.B. 220
A.F.A. 47
25M—7-43 (1157)
H.Q. 1773-38-544

[signature] Major DAAG
for (G Walsh) Brigadier
Commander
Eastern Ontario Area

"G"

PRESIDENT DCM

SUMMARY OF EVIDENCE

in the case of

SA 3585 Private Charles Robert BURTON, The Royal Canadian Regiment, a soldier of the Canadian Army (Active Force).

CHARGE:-

ABSENCE WITHOUT LEAVE

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

FIRST WITNESS

ZP 1237 Captain E R Friel, The Royal Canadian Regiment, having been duly sworn states:-

I am the Adjutant of The Royal Canadian Regiment, Canadian Army (Active Force) and have been since 1 Oct 46. As Adjutant, I have the custody of the Regimental books of the unit and the documents of the accused whom I recognize as SA 3585 Private Charles Robert Burton, The Royal Canadian Regiment, Canadian Army (Active Force).

I produce the following documents, all referring to the accused, Private Burton:

(1) MFB 375, being certified true copy of the Record of the Court of Inquiry enquiring into the absence of the accused, and duly certified by me as Adjutant and officer having custody of the original documents.

(2) Certificate of apprehension of the accused, in accordance with AA 163 (1) (m), purporting to be signed by Constabule H W Howe of the RCMP Niagara Falls, Ontario.

(3) Certified true copies of Part II Orders No 208 dated 4 Nov 47, No 213 dated 12 Nov 47, No 223 dated 25 Nov 47, No 228 dated 2 Dec 47 and No 44 dated 25 Apr 49 showing AWL entries and cost of apprehension of the accused.

MFB 375 is marked as "A"; Certificate of Apprehension is marked as "B"; and certified true copies of Part II Orders of The Royal Canadian Regiment are marked as "C"; signed by the officer taking the Summary of Evidence and attached to the Summary of Evidence.

The accused declined to cross-examine.

E R Friel

(E R FRIEL) Captain
Adjutant,
THE ROYAL CANADIAN REGIMENT

QUESTIONS TO THE ACCUSED

"Do you wish to make any statement or 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."

ANSWER BY THE ACCUSED

"I have nothing to say at this time, Sir."

C R Burton

(SA 3585 Pte BURTON C R)

I certify that the foregoing Summary consisting of two (2) pages was taken down by me in the presence of the accused at Brockville, Ontario this 25th day of April 1949 and that the Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

(L W C HAYES) Lt.
Officer detailed to prepare
Summary of Evidence
THE ROYAL CANADIAN REGIMENT

CERTIFICATE IN ACCORDANCE WITH SECTION 163 (1)(m) OF THE ARMY ACT

I certify that the person whose description is given below was arrested at St Catherines, Ont (Place) at 11.00 A.M. (Hour) on the 22nd day of April 19 49

Regimental particulars of the officer or soldier referred to above

(No. . . SA 3585
(Rank. . Private
(Name. . BURTON C R
(Unit. . R C R
(Age. . . 27
(Height. 5'9"
(Complexion. . . Medium
(Hair. . Brown
(Eyes. . Blue
(Marks. . Scar left leg appendectomy Scar

Signature of officer of police in charge of police station where the above-named person was taken, or placed in custody, on arrest or surrender.

W HOWE
(Sgd) Reg # 10404 Cst HOWE
(IN Charge of)
RCMPolice, Niagara Falls Ont
(Police Station)

Certified True Copy

(E R FRIEL) Captain
Adjutant,
THE ROYAL CANADIAN REGIMENT

"A"

(L W G HAYES) Lt.
Officer Detailed to Prepare
Summary of Evidence
THE ROYAL CANADIAN REGIMENT

"B"

(L W HAYES) Lt

RECORD of the Declaration of a Court of Inquiry assembled at Brockville, Ontario on the 26th day of November 19 47, 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. SA 3585 Private BURTON Charles Robert, The Royal Canadian Regiment, Cdn Army (AF)

DECLARATION

The Court declare that No. SA 3585 (Regt'l No.) Private (Rank) Charles Robert BURTON (Full Name), The Royal Canadian Regiment (Unit), Cdn Army (AF) illegally absented himself without leave from The Royal Canadian Regiment, Cdn Army (AF) at Brockville (Place) at 1600 hours on the 2nd day of November 1947, that he is still so absent, and that on the 26 November 1947 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE		ARTICLES		VALUE	
Badges Cap	(1)		07	Blouse B D	(1)	6	91
Trousers B D	(2)	12	48	Boots Ankle prs	(2)	11	08
Brushes Hair	(1)		40	Caps Beret	(1)	1	14
Coats Waterproof	(1)	6	58	Combs Hair	(1)		05
Drawers Cotton Short	(1)		40	Neckties Black	(1)		18
Puttees Short Prs	(1)		50	Shirts under Cotton	(2)		80
Shirts Cotton Khaki	(2)	2	34	Shoes Leather black	(1)	4	60
Singlets Gymnasium	(2)		80	Socks prs	(3)	1	32
Socks Black Prs	(2)		52	Towels Hand	(1)		30
Trousers K D	(1)	1	71	Braces Right	(1)		30
Braces Left	(1)		31	Haversack	(1)	2	18
				TOTAL		54	96

(Sgd) K ELLIOTT (Name) (Rank) (Unit) President

(K ELLIOTT) Lt RCR Cdn Army (AF)

(Name) (Rank) (Unit) Member

Signed at Brockville, Ontario

this 26th day of November 19 47

(Name) (Rank) (Unit) Member

Signature of Commanding Officer (Sgd) J M Houghton

(J M HOUGHTON) Lt. Colonel RCR

Certified true copy (Name) (Rank) (Unit)

(Signature of Officer having custody of original record)

(E R FRIEL) Captain & Adjutant RCR Cdn Army (AF)

M.F.B. 125
A.F.B. 115
200M—1-44 (3576)
H.Q. 1772-39-247

DAILY ORDERS PART II

ISSUED BY

LT.COLONEL J M HOUGHTON, OBE

COMMANDING OFFICER

THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)

Order No. 208
Dated 4 Nov 47
BROCKVILLE, Ontario

(Last Order Issued no 207 d/3 Nov 47)

4. ABSENT WITHOUT LEAVE

(c) AWL from 1600 hrs

SA 3585	PTE	BURTON	C R	RCIC	2 NOV 47

SGD E R FRIEL

(E R FRIEL) CAPT & ADJT
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, ONTARIO

CERTIFIED TRUE EXTRACT

(E R FRIEL) CAPT & ADJT
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, ONTARIO

"C"

(L W G HAYES) Lt.
Officer Detailed to Prepare
Summary of Evidence
THE ROYAL CANADIAN REGIMENT

DAILY ORDERS PART II

ISSUED BY

LT.COLONEL J M HOUGHTON, OBE

COMMANDING OFFICER

THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)

Order No 213
Dated 12 Nov 47
BROCKVILLE, Ontario

(Last Order Issued No 212 d/10 Nov 47)

5. ABSENT WITHOUT LEAVE

(b) Still absent 1600 hrs (8th dy)

SA 3585	PTE	BURTON	C R	RCIC	10 NOV 47

SGD E R FRIEL

(E R FRIEL) CAPT & ADJT
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, ONTARIO

CERTIFIED TRUE EXTRACT

E R Friel

(E R FRIEL) CAPT & ADJT
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, ONTARIO

DAILY ORDERS PART II

ISSUED BY

LT.COLONEL J M HOUGHTON, CBE

COMMANDING OFFICER

THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)

Order No 223
Dated 25 Nov 47
BROCKVILLE, Ontario

(Last Order Issued No 222 d/24 Nov 47)

1. ABSENT WITHOUT LEAVE

(b) Still absent 1600 hrs (22nd dy)

SA 3585	PTE	BURTON	C R	RCIC	24 NOV 47

H C TAYLOR Lt
SGD f (E R FRIEL) CAPT & ADJT
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, ONTARIO

CERTIFIED TRUE EXTRACT
E R Friel
(E R FRIEL) CAPT & ADJT
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, ONTARIO

DAILY ORDERS PART II

ISSUED BY

LT.COLONEL J M HOUGHTON, OBE

COMMANDING OFFICER

THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)

Order No 228
Dated 2 Dec 47
BROCKVILLE, Ontario

(Last Order Issued No 227 d/29 Nov 47)

12. STRENGTH DECREASE

(a) SOS having been declared illegally absent from 1600 hrs 2 Nov 47 by a Ct of Inq held on 26 Nov 47. Kit deficiencies to the amount of $54.96

SA 3585	PTE	BURTON	C R	RCIC	26 NOV 47

SGD H C TAYLOR

for (E R FRIEL) CAPT & ADJT
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, ONTARIO

CERTIFIED TRUE EXTRACT

E R Friel

(E R FRIEL) CAPT & ADJT
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, ONTARIO

PART II ORDERS

BY

LT.COLONEL P R BINGHAM

THE ROYAL CANADIAN REGIMENT

Canadian Army (AF)

Order No. 44
d/ 25 Apr 49
BROCKVILLE, Ontario

(Last Order Issued No 43d/23 Apr 49

4. STRENGTH INCREASE

(a) Having been SOS The Royal Canadian Regiment by Ct of Inq 26 Nov 47 TOS Regimental Rate of Pay Pte (6 yrs) on surrendering himself to civil authorities at St.Catharines, Ontario

Cost of apprehension

Single fare Niagara Falls to Brockville	$6.33
Total cost of apprehension	$6.33

SA 3585 PTE BURTON C R RCIC 22 APR 49

SGD E R FRIEL
(E R FRIEL) Capt & Adjt
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, Ontario

CERTIFIED TRUE EXTRACT
(E R FRIEL) CAPT & ADJT
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, ONTARIO

"H"

STATEMENT OF ACCUSED IN MITIGATION
OF PUNISHMENT

PRESIDENT DCM

I went overseas mid August 1940 until 1945 and from time to time I was over there I got letters from home about my wife. I got back home in 1945. I drifted about from spot to spot and got one of the booklets about rejoining the Army. I thought it would be good to go back in again and went to Toronto and joined up and asked to get back to the RCR and came back to the old battalion. I went on soldiering until my annual leave and went back to Woodstock, Ontario, my home town and about the first couple of days' of my leave I met my present wife there and seemed to be coming along pretty good and then went back to Brockville. After a couple of days I got a phone call from my fiancee and I went back to Woodstock again only intending to stay a few days and time speeded by pretty fast and I went and got married and went down to St. Catharines. I realized that I was doing wrong there but I don't know I was too happy and time kept going by and by and I knew I had to face it some time. Many times I tried to make up my mind to come back but couldn't do so. I was too happy with my wife to leave what I had. So I went on like that and I always, when I saw a soldier or army truck, I had it in mind knowing one day I would have to go back but I was making a fair living and I had a lot of debts. I talked it over with my wife and I went to see my boss where I worked before and decided to turn myself in and try to start over again. The only thing I would have been back long ago but if you have something you want to hold on to it. I knew when I came back I would get detention and by the time she would get money from me it would be a couple of months maybe three and I wanted to see she was provided for. That's about all, Sir.

"J"

EVIDENCE OF WITNESSES AS TO CHARACTER

PRESIDENT DCM

FIRST WITNESS: ZF 851 Lieutenant Roy Leonard, The Royal Canadian Regiment, Canadian Army (Active Force) having been duly sworn is examined by the Defending Officer.

Q7 Would you identify yourself for the court.

A7 I am, ZF 851 Lieutenant Roy Leonard, The Royal Canadian Regiment.

Q8 Do you recognize the Accused?

A8 Yes.

Q9 Do you remember the accused's name?

A9 I do, Private Burton.

Q10 Will you tell the Court what you know of the character of Private Burton?

A10 I have known Private Burton for about two and a half years. During that time he served in my Platoon in 'B' Company, RCR for about seven months. During that time I found Burton to be an efficient soldier, he did a good job and caused me no trouble whatsoever. That is all.

THE PROSECUTING OFFICER DECLINED TO CROSS-EXAMINE.

In the opinion of the Court it is unnecessary to comply with the provisions of R.P. 83(1) Referring

SECOND WITNESS: SP 28107 Company Sergeant-Major (Warrant Officer Class II) Reid, J.C., The Royal Canadian Regiment, Canadian Army (Active Force) having been duly sworn is examined by the Defending Officer.

Q11 Will you identify yourself?

A11 SP 28107 WO II Reid, J.C.

Q12 Do you recognize the Accused?

A12 I do, Sir.

Q13 Do you remember the Accused's name?

A13 Private Burton, Sir.

Q14 Would you tell the court what you know of the character of Private Burton?

A14 I had Private Burton as a member of 'B' Company, Royal Canadian Regiment, Canadian Army (Active Force) while I was CSM. As to his character while I had the Company, he was an outstanding soldier in the barrack room and an example to the remainder of the men and was considered for promotion by the Commanding Officer. At no time while CSM did I have any trouble with Private Burton, Sir.

THE PROSECUTING OFFICER DECLINED TO CROSS-EXAMINE.

In the opinion of the Court it is unnecessary to comply with the provision of R.P. 83(1)

"K"

-33- PRESIDENT DCM

M.F.B. 355
50M—8-45 (7478
H.Q. 1772-39-639
A.F.B. 294

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
SA 3585	Private	Charles Robert BURTON	R C R

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

	Within last 12 months	Since enlistment or appointment
For	Nil times	One entry AA Sec 15(1) times
For	times	times
For	times	times
For	times	times

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

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

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

2. The accused has not been previously convicted.

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

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

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

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 15 days in military custody, making a total of 15 days in custody, of which Nil days were spent in hospital. ~~Air Force~~

5. The present age of the accused according to his ~~record of service~~ attestation paper is 27 years 2 months

6. The date of his ~~commission~~ attestation ~~enrolment~~ specified in his ~~record of service~~ ~~enrolment~~ attestation paper is 8 Apr 47

7. The service which the accused is allowed to reckon towards discharge is 2 years 28 days 6 yrs 4½ months

8. The accused is entitled to reckon service for the purpose 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 possession of or entitled to). State any ~~air force~~ military decoration or reward. 1939-45 Star, F & G, military Defence Medal, CVSM and 1939-45 War Medal

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

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

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

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

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

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

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

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 6 MAY 49 day of (E R FRIEL) Captain & Adjutant RCR

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

Reg. No. SA 3585 Name BURTON Charles R Corps RCIC Date of enlistment or enrolment 8 APR 47 Date of Birth 11 Feb 22

Signature O.C. Company, etc. (Sgd) A F WHITE Capt Sheet No. One of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Brockville Ont	31 Jul 1947	Pte		AA Sec 15(1) AWL 2 days 17 hrs 15 mins	Cpl Stoneham	14 dys CB	5 Aug 47	Lt Colonel J M Houghton	Forf 3 days pay para 286 (a)P&A (ARMY)

Certified True Copy as of 6 May 49

(E R FRIEL) Captain
Adjutant
THE ROYAL CANADIAN REGIMENT

M.F.M. 6—500M—4-45 (7234)
H.Q. 1772-39-1552

(P.T.O.)

"L"

DEFENDING OFFICER'S ADDRESS

PRESIDENT DCM

Pte. Burton was born in Woodstock, Ontario on 18 February 1922 which makes his age approximately 27 years, a grown man, with the intelligence to fully understand any responsibilities he may undertake.

Private Burton grew up in an average family, with his father working hard to provide adequately for a family of seven (Private Burton has 2 brothers and 4 sisters). Private Burton's father has worked in a wood-working factory in Woodstock for over 27 years. All male members of Private Burton's immediate family served in the Forces during World War II with the exception of one brother who was rejected on medical grounds.

Private Burton attended Public School in Woodstock and attended Secondary School for two years and had a good record.

Private Burton's first employment was in an Egg grading station in Woodstock and he mastered his trade. From there, after a year and a half, he went to a Dry Cleaning establishment in Woodstock and learned this trade as well. This job paid well.

In early 1938 Private Burton married a local girl whom he had known for several years and settled down to a happy married life in a home. About 2 months after marriage Private Burton moved his home to Perron, Quebec where he was in the employ of his brother-in-law as a truck driver hauling ore from Perron Mine.

On the outbreak of World War II Private Burton and family returned to Woodstock and in December 1939 he applied for enlistment in the Royal Canadian Regiment at Wolsely Barracks, London, Ontario. He was attested on 15 January 1940. He proceeded to U.K. in August 1940. When he proceeded overseas his wife was living with his parents and in October 1940 bore him a son. Soon after arrival in the U.K. Private Burton was posted to a Guard Platoon at 7th Corps Headquarters, to do ceremonial guards for visiting dignitaries which bears out the fact that he was a better than average soldier.

In early 1941 Private Burton returned to the RCR and completed his training. He was then posted to an Officers' Training Unit at Borden as a member of a demonstration platoon which bears out the fact that he was a proficient soldier. He remained here until July when he was hospitalized for four months. Then came a round of Holding Units. In January 1943 he went to CMHQ in the field as a batman driver for Major J.A. Harthstone, M.C. until a week or so before D Day. Soon after D Day Private Burton went to France as a Driver [redacted] IC for a liaison officer at 2nd Corps Headquarters. At Caen, Burton attempted a transfer to an Armoured unit but was not allowed to do so. He remained a Driver [redacted] until near the end of the War. Then came a motor accident, hospital and subsequent return to The RCR at Soesdyk, Holland. Burton returned to Canada with The RCR and was discharged at Wolsely Barracks in December 1945.

(OVER)

Whilst he was overseas in 1941 Burton noticed that letters from his wife were getting fewer and further between. Then correspondence ceased altogether and he made inquiries of his parents. From reports from home he found that his wife had really gone down hill and was keeping company with many members of the Armed Forces at home and was nick-named the "Blonde Bomber". Burton's wife was caught in the act by his own father. In 1943 Burton received a letter from his wife demanding a divorce since her allowance had been stopped. The divorce was granted during Burton's pre discharge leave in 1945 and ended a period of 5 years of torture and anxiety for Burton. Of course, this had a great effect on Burton, he could not settle down on discharge. Gratuities and Re-establishment Credit, which were considerable, slipped through his fingers. To make matters worse Burton's son was given over to the keeping of his ex-wife.

Burton at this time went from job to job and could not settle down. In April 1947 he re-enlisted in the Canadian Army (Active Force) and was posted on request to The RCR at Brockville, Ontario. He rejoined his old company, "B" Company in Lieutenant L. Leonard's platoon. He became unit librarian and was a good soldier all round. In October 1947 he was granted 30 days annual privilege leave. During this leave Burton met a girl in Woodstock who filled the void in his private life and gave him comfort and sympathy such as his previous wife had never done. This girl was soothing to the troubled emotions of a man who had been upset for 5 long years. Burton returned to Brockville when his leave expired.

A few days passed, Burton received a telephone call from his fiancee in Woodstock. He yearned to see her again and went AWL, intending to remain only one or two days. Time went on and with each passing day it became more difficult to tear himself away and return to make amends. After he had been absent for 17 days, Burton was married. His family accepted this girl as his previous wife had not been accepted. Now Burton was happy as he never had been before. His wife helped him financially. Burton got a job and established a home in St. Catharine's Ontario. They were happy except for one thing, the knowledge that he was now long absent and must some day answer this present charge. As the days passed, Burton's fear of returning to answer this charge grew. His wife advised him to return and get it over with. Burton eventually told his employer of his trouble and on his employer's and his wife's advice, gave himself up to the Civil Authorities in St. Catharine's.

It took a great amount of courage to do this especially with the realization that he was leaving his new found happiness behind, but this was offset a great deal after he had returned by assurances from his wife that all would be well at home when he returned.

Private Burton now stands before this court a much relieved man, who knows what torture it is to be a fugitive.

He has a wife and responsibilities at home. He has the fear in the back of his mind that perhaps what happened in 1945 will happen again and any aid which he can give his wife is now cut off. Burton is ready to pay for his error and start life anew, Sir.

H.Q.C. 55-B-3588 **CONFIDENTIAL**

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT DISTRICT COURT-MARTIAL

BURGER, HAROLD PETER SB.52082 PTE.

CONFIDENTIAL
H.Q.C. 55-B-3588

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
				JAG	NEW FILE	CR	3-6-49
JUL [illegible]	14/7/49	PA	KMcS	D admin	Do note v PA	[illegible]	13/6/49

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for [illegible] or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other [illegible] opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

MQC 55-B-3588 (JAG/O)

XXXXX

Office of the Judge Advocate General

13 Jun 49

Headquarters, Central Command,
Ortona Barracks,
Oakville, Ont.

District Court-Martial
SB.52082 Pte Burger, H. P.

Receipt is acknowledged of your SB 52082 dated 2 Jun 49, enclosing proceedings of the m/n District Court-Martial.

2. These proceedings were entered in our records as No. 47065 on 8 Jun 49.

Recd and 14 Jun 49

DIRECTORATE OF ADMINISTRATION ARMY JUN 14 1949 OTTAWA CANADA

WMWS

(W.M.W. Shaw) Lt.-Col.
for Judge Advocate General

Noted
Klf McShane Capt
for D Adm 14/6/49

H.Q. C.55-B-3588
M.D.

MEMORANDUM - DISTRICT COURT-MARTIAL

No. SB 52082 Name BURGER, Harold Peter

Rank Pte. Unit R C R

Charge AA 15(1) - Absenting Himself Without Leave - absent from 0600 hrs 2 Jul 47 to 1400 hrs 2 May 49 (Apprehended)

Date of Crime 2 July 1947

Date of Arrest 2 May 1949 Charge Signed 11 May 1949

Orders for D.C.M. 11 May 1949

Place and Date of Trial Barriefield, Ontario, 13 May 1949

Sentence Eleven Months Detention

Date of Confirmation 23 May 1949

Date of Promulgation 27 May 1949

Entered in Records of J.A.G. as No. 47065

Date 8 June 1949

MEMO Accused found GUILTY of the charge.

Five months of the sentence of detention remitted on confirmation.

W M W Shaw
Lt Col

for Judge Advocate-General

HDQTRS., CENTRAL COMMAND CC/SC 155826 (J)
SB 52082

Ortona Barracks,
OAKVILLE, Ont., 2 Jun 49.

Registered.

Office of the Judge Advocate-Gen.,
Dept. of Nat'l Defence,
OTTAWA, Ont.

JAG

JUN 8 1949

C.55-B-35-89

DISTRICT COURTS-MARTIAL
SC 135826 Pte KENNEDY R.W.H.
SB 52082 Pte BURGER H.P.

Herewith the marginally-noted District Court-Martial proceedings, for registration and custody.

2. A delay report has been requested in the case of Pte KENNEDY.

3. No further administrative action in either case is deemed necessary by this Headquarters.

(C Vokes) Majo-Gen.
GOC.? Central Cmd.

Original on: C.55-K-766

PROCEEDINGS

of

DISTRICT COURT MARTIAL

of

SB 52082 Private Harold Peter BURGER

THE ROYAL CANADIAN REGIMENT
CANADIAN ARMY (AF)

Accmachell Mgr
President
D.C.M.

MEDICAL OFFICER'S REPORT

I certify that No. SB 52082 Pte BURGNER H

of RCR Cdn Army (AF) is in a fit state of health,

and able to undergo Trial by Court martial.

R C Elliott
Medical Officer
(R.C. ELLIOTT) Capt RCAMC
Medical Officer
RCR Cdn Army (AF)

Station BROCKVILLE Ontario

Date 12 May 49

M. F. B. 246
50M—9-44 (5437)
H Q 1772-39-480

①

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

A

Form of Proceedings for General and District Courts-Martial

Proceedings of a District Court-Martial held at Barriefield, O on the 13th day of May 19 49 by order of Brigadier G Walsh CBE DSO Commanding Eastern Ontario Area dated the 11th day of May 19 49.

President.

ZK 122 Major C E C Mac Neill ED RCIC
The Royal Canadian Regiment

Members.

ZD 3098 Captain G O Brown RCA
128 HAA Bty RCA

ZC 3101 Lieutenant W Sherry RCOC
4 Area Ordnance Depot RCOC

~~, Judge Advocate.~~ ccon

Trial of* SB 52082 Private Harold Peter BURGER, The Royal Canadian Regiment, Canadian Army (AF).

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

~~ccon The Court satisfy themselves that is not available to ccon owing to ccon, ~~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,† ZC 3120 Lt L W G Hayes, RCIC
The Royal Canadian Regiment

ccon ~~Counsel‡ or~~ defending officer† ZP 1641 Captain J P Cook RCIC
The Royal Canadian Regiment

At 1000 hours the Trial commences.

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

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.

Q 1 *Question by the President to the accused.* Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

A 1 *Answer by accused.* No Sir (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, Unit, Attachment (if any), and Appointment (if any).

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

‡ Qualification to be stated.

(Strike out and initial when not applicable.)

*I have satisfied myself that none of the officers detailed as members of this Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the charge ~~(charges)~~ before the Court-Martial.

Mil. Form B. 271
50M-3-43 (9036)
H.Q. 1772-39-224

C C Mac Neill
President DCM

2

B

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

The following officers under instruction, having been duly detailed, are duly sworn.

ZA 3219 Lieutenant A S T Bake RCIC
The Royal Canadian Regiment

Q 2. Do you object to L Cpl Leask of The Royal Canadian Regiment as shorthand writer?
A 2. No, Sir. (The shorthand writer is duly sworn).

Charge-Sheet

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

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

The accused is arraigned upon the ~~[each]~~ ecom charge in the above-mentioned charge-sheet.

Q 3 Is that your number, rank, name and unit? *Question to the accused.*

A 3 Yes, Sir. *Answer.*

Q 4 Are you guilty or not guilty of the ~~[first]~~ ecom charge against you, which you have heard read? *Question to the accused.*

A 4 Guilty, Sir. *Answer.*

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

Answer.

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

Answer.

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

Answer.

ecom

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 Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

ecomechull
(PRES - DEM)

"B-2"

CHARGE SHEET

The accused SB 52082 Private Harold Peter BURGER, The Royal Canadian Regiment, a soldier of the Canadian Army (Active Force) is charged with:-

ABSENTING HIMSELF WITHOUT LEAVE

Charge
Sec 15 (1)
Army Act

in that he

at Brockville, Ontario, at 0600 hrs 2 Jul 47 absented himself without leave from The Royal Canadian Regiment until apprehended by civilian authorities, dressed in civilian clothes, at Welland, Ontario at 1400 hrs 2 May 49. Total time absent 670 days, 8 hours. Cost of apprehension and return to his Corps $4.53.

(P R BINGHAM) Lt. Colonel
Commanding,
THE ROYAL CANADIAN REGIMENT

BROCKVILLE, Ontario.

11 MAY 49.

TO BE TRIED BY DISTRICT COURT-MARTIAL

(G Walsh) Brigadier
Commander
Eastern Ontario Area

KINGSTON, Ontario
11 MAY 49

(This page to be removed from proceedings when plea to all charges is Not Guilty.)

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

~~*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" is read to him again.]~~

The accused SB 52082 Private Harold Peter BURGER, The Royal Canadian Regiment.
is found guilty of of the charge.

*The summary ~~(or abstract)~~ of evidence is read, marked "C" signed by the President, and attached to the proceedings.

Q 5 *Question to the accused.* Do you wish to make any statement in mitigation of punishment?

A 5 *Answer.* Yes, Sir The accused in mitigation of punishment ~~says:—~~

~~for~~ hands in a written statement, which is read, marked "D" signed by the President, and attached to the proceedings.]

Q 6 By the Prosecutor to the President of the Court--Is the statement read made under oath?

A 6 Answer by the Defending Officer--The statement was not taken under oath. It is a statement made and signed by Private Burger.

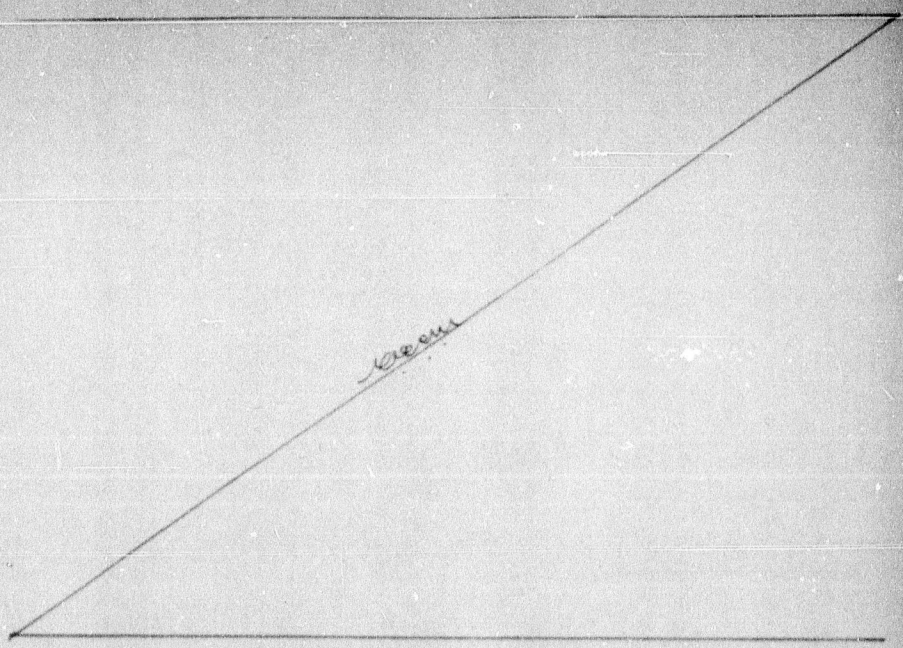
*If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

Instruction.

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.

(PRLS DCM)

DD



Q 7 Do you wish to give evidence yourself or to call any witnesses as to character? *Question to the accused.*

A 7 Yes, Sir. *Answer.*

First Witness as to Character, having been duly sworn, is questioned by the Defending Officer. *Evidence as to character.*

Q 8 Will you identify yourself to the Court, please?

A 8 I am ZP 1641 Captain J P Cook, The Royal Canadian Regiment, Defending Officer of the accused Pte Burger.

Q 9 Do you recognize the accused?

A 9 Yes, Sir.

Q 10 Will you tell the Court what you know about Pte Burger.

A 11 In liew of a character witness I produce this letter addressed to "To Whom It May Concern" purporting to be signed by SL 1467 Lance Corporal J R Hanley regarding the character of the accused.

(The letter is marked "E" signed by the President, and attached to the Proceedings)

The Prosecutor declines to cross examine.

In the opinion of the Court, it is not necessary to comply with Rules of Procedure 83 (B).

The Witness withdraws.

(PRES DCM)

E

Finding*

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

~~The Court is closed for the consideration of the finding.~~

The Court find that the accused

Proceedings on Conviction *before Sentence*

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

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

Evidence of character, etc.

ZC 3120 Lt L W G Hayes, RCR, RCIC is duly sworn.

Q 12 *Question by the President.*
A 12

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* I produce in evidence MFB 355 and Conduct Sheet MFM 6.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked "Y" , signed by the President, and annexed to the proceedings. MFM 6 is marked "Y I" signed by the President, and attached to the proceedings.

Q 13 *Question by the President.*
A 13

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

Q 14 *Question.*
A 14

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes, Sir.

Q 15 *Question.*
A 15

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.* Yes, Sir.

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

Cross-examined by the Defending Officer (accused) (Counsel for the accused). THE DEFENDING OFFICER DECLINES TO CROSS EXAMINE
THE WITNESS WITHDRAWS

IN THE OPINION OF THE COURT, IT IS UNNECESSARY TO COMPLY WITH RULES OF PROCEDURE 83 (B)

Q 16 *Question to the accused.*

A 16 *Answer.*

Do you wish to address the Court? Defending Officer--I wish to address the Court. (Pleas of Mitigation is read by the Defending Officer, marked "F", signed by the President, and annexed to the proceedings.
The Court is closed for the consideration of the sentence.

CPRES DCMJ

7

F

Sentence

BURGER *Sentence.* Detention For 11 months.

The Court sentence the accused SB 52082 Pte Harold Peter BURGER The Royal Canadian Regiment.

To undergo detention for 11 months, the sentence is subject to confirmation

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

The sentence is announced in open Court: the sentence is announced as being subject to confirmation.

Signed at Barriefield, Ontario this 13th day of May 1949.

(C E C Mac NEILL) Major
President, D C M

Extracts entered as No. 4716 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 8th day of June 1949

I confirm the finding and sentence of the court but remit five (5) months of the sentence of detention.

Signed at Kingston Ont this 23rd day of May 1949.

(G Walsh) Brigadier
Commander
Eastern Ontario Area

Promulgated and extracts taken at Brockville Ontario the 27th day of May 1949

T/ Capt
The Royal Can Regt

8

"X"
C.E.C. MacNeill Major
President, DCM

Orders by Brigadier G Walsh CBE DSO Commanding

the Eastern Ontario Area

District Court-Martial

SB 153224 Private James Frederick CHANDLER
RCEME School
SB 52082 Private Harold Peter BURGER
The Royal Canadian Regiment

11th MAY 1949

The detail of Officers as mentioned below will assemble

at RCEME School on Friday
BARRIEFIELD, Ontario
the 13th day of MAY 1949 at 1000 hours
for the purpose of trying by a District Court-Martial the accused person (persons) named in the margin (and such other person or persons as may be brought before them).

PRESIDENT

ZK 122 Major C E C MacNeill ED RCIC
The Royal Canadian Regiment
is appointed President.

MEMBERS

ZD 3098 Captain G O Brown RCA
128 HAA Bty RCA
ZC 3101 Lieutenant W Sherry RCOC
4 Area Ordnance Depot RCOC

WAITING MEMBERS

ZP 1585 Captain D H MacHale RCEME
RCEME School
ZP 1811 Captain H B Lightfoot RCEME
RCEME School

JUDGE ADVOCATE

- - - - ~~[illegible]~~

~~[illegible]~~

PROSECUTOR

ZF 651 Lt L G Doiron RCIC (for Pte CHANDLER)
RCEME School ~~[illegible]~~ (is hereby) appointed
Prosecutor.
ZC 3120 Lt L W G Hayes RCIC (for Pte BURGER)
RCR

DEFENDING OFFICER

ZK 1126 Capt J C Currie RCEME ~~[illegible]~~ (is hereby) appointed
Defending Officer. RCEME School (for Pte CHANDLER)
ZP 1641 Capt J P Cook RCIC RCR (for Pte BURGER)

The accused will be warned and all witnesses duly required to attend.

The Officers Commanding RCEME School and The Royal Canadian Regiment will arrange for the necessary accommodation, stationery, court orderly, escort, shorthand writers, and interpreters.

The proceedings will be forwarded to AA & QMG HQ E Ont Area

Signed this 11th day of MAY 1949

M.F.B. 220
A.F.A. 47
25M—7-43 (1132)
H.Q. 1772-39-564

G. Speedie Major DAAG
(G Walsh) Brigadier
Commander
Eastern Ontario Area

9 "C"

SUMMARY OF EVIDENCE

in the case of

SB 52082 Private Harold Peter BURGER, The Royal Canadian Regiment, a soldier of the Canadian Army (Active Force).

CHARGE:

ABSENTING HIMSELF WITHOUT LEAVE

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

FIRST WITNESS

ZP 1237 Captain E R Friel, The Royal Canadian Regiment, having been duly sworn states:-

I am the Adjutant, The Royal Canadian Regiment, Canadian Army (Active Force) and have held this appointment since 1 Oct 46. As Adjutant, I have the custody of the Regimental Books of this unit and the documents of the accused whom I now recognize as SB 52082 Private Harold Peter Burger, The Royal Canadian Regiment, Canadian Army (Active Force).

I produce the following documents, all referring to the accused, Pte Burger.

(1) MFB 375, being certified true copy of the Record of the Court of Inquiry enquiring into the absence of the accused and duly certified by me as Adjutant and officer having custody of the original document.

(2) Certificate of apprehension of the accused, in accordance with AA 163 (1) (m), purporting to be signed by Detective Fred J Wilson, of Welland, Ontario.

(3) Certified true copies of Part II Orders No 114 dated 4 Jul 47, No 119 dated 10 Jul 47, No 130 dated 24 Jul 47, No 138 dated 2 Aug 47 and No 55 dated 11 May 49 reflecting AWL entries and cost of apprehension of the accused.

MFB 375 is marked as "A"; Certificate of apprehension is marked as "B"; and certified true copies of Part II Orders of The Royal Canadian Regiment are marked as "C"; signed by the officer taking the Summary of Evidence and attached to the Summary of Evidence.

The accused declined to cross-examine.

E R Friel

(E R FRIEL) Captain
Adjutant,
THE ROYAL CANADIAN REGIMENT

QUESTIONS TO THE ACCUSED

"Do you wish to make any statement or 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.

ANSWER BY THE ACCUSED

"I have nothing to say at this time, Sir."

H. Burger

(SB 52082 Pte BURGER H P)

I certify that the foregoing Summary of Evidence of two (2) pages was taken down by me in the presence of the accused at Brockville, Ontario this 10th day of May 1949 and that the Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

(L W [illegible] HAYES) Lt.
Officer Detailed to Prepare
Summary of Evidence
THE ROYAL CANADIAN REGIMENT

"A"

(L W [illegible]) Lt.

RECORD of the Declaration of a Court of Inquiry assembled at Brockville, Ontario on the 24th day of July 19 47, 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 SB52082, Pte BURGER, Harold Peter, The Royal Canadian Regiment, Cdn Army (AF)

DECLARATION

The Court declare that No. SB 52082 (Regt'l No.) Private (Rank)
BURGER Harold Peter (Full Name) (Unit)
illegally absented himself without leave from The Royal Canadian Regiment, Cdn Army (
at Brockville (Place) at 0600 hours on the 2nd day of July 47,
that he is still so absent, and that on the 24th July 47 he was deficient, and
that he is still deficient of the following articles:—

ARTICLES		VALUE		ARTICLES		VALUE	
D 24650	Badges Cap RCR		07		Singlets White		43
C 900	Brusher Hair		39	5 2400	Towels Hand		31
C 950	Brushes Shaving		42	1A30300	Tins Mess		57
B 3300	Drawers Cotton S		84				
C 1310	Holdalls		22				
C 1610	Neckties Black		19		Total	13	91
C 1850	Razors Safety Set		86				
B 8350	Shirts U Cotton		42				
B 7950	Shirts K Cotton	1	95				
B 8750	Shoes Leather B	4	84				
B 8850	Socks Army	1	84				

J D ATKINSON Lt. RCR President
(Name) (Rank) (Unit)

Signed at BROCKVILLE, Ontario (Name) (Rank) (Unit) Member

this 29th day of July 19 47 (Name) (Rank) (Unit) Member

Signature of Commanding Officer (Sgd) J M HOUGHTON Lt. Colonel
(Name) (Rank) (Unit)

Certified true copy [signature] (E R FRIEL) Captain and Adjutant, R C R
(Name) (Rank) (Unit)
(Signature of Officer having custody of original record)

M.F.B. 375
A.F.B. 115
200M—1-44 (3376)
H.Q. 1772-39-257

Certificate in accordance with Section 163 (1) (m) of the Army Act

I certify that the person whose description is given below was arrested ~~[illegible]~~ at WELLAND, Ont. (Place), at 14:00 hrs. (Hour)

on the Second day of May, 1949

Regimental particulars of Officer or soldier referred to above

(NO. SB-52083

(Rank Pte.

(Name BURGER, H. P.

(Unit R. C. R. BROCKVILLE, Ont.

(Age 28

(Height 5'8"

(Complexion Medium

Description

(Hair Black

(Eyes Brown

(Marks Tattoo Rt. forearm

Signature of officer of police in charge of police station where the above-named person was taken, or placed in custody, on arrest or surrender

Fred J. Wilson Detective (In Charge of (F. J. Wilson)

WELLAND CITY, Ont. Police Station)

PART II ORDERS

THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)

ISSUED BY

LT.COLONEL J M HOUGHTON OBE

OFFICER COMMANDING

This Order No 114
Dated 4 Jul 47
Place Brockville
Ontario

(Last Order No 113 d/3 Jul 47)

3. ABSENT WITHOUT LEAVE

(d) AWL from 0600 hrs 2 JULY 47
still absent 0600 hrs 3 JULY 47
(1st dy)

SB 52082 PTE BURGER H P RCIC 2 JUL 47

(Sgd) E R Friel

(E R FRIEL) CAPTAIN & ADJUTANT
THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)
BROCKVILLE Ontario

CERTIFIED TRUE EXTRACT

(E R FRIEL) CAPT & ADJT
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, ONTARIO
10 MAY 49

"C"

(L W C JAMES) Lt.
Officer detailed to Prepare
Summary of Evidence
THE ROYAL CANADIAN REGIMENT

PART II ORDERS

THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)

ISSUED BY

LT.COLONEL J M HOUGHTON CBE

OFFICER COMMANDING

This Order No 130
Dated 24 Jul 47
Place: Brockville, Ont.

(Last Order No 129 d/22 Jul 47)

3. ABSENT WITHOUT LEAVE

(a) AWL from 0600 hrs 2 JULY 47
still absent 0600 hrs 24 JULY 47
(22nd day)

SB 52082 PTE BURGER H P RCIC 2 JUL 47

(Sgd) E R Friel

(E R FRIEL) CAPTAIN & ADJUTANT
THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)
BROCKVILLE, ONTARIO

CERTIFIED TRUE EXTRACT

(E R FRIEL) CAPT & ADJT
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, ONTARIO
10 MAY 49

PART II ORDERS

THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)

ISSUED BY

LT.COLONEL J M HOUGHTON OBE

OFFICER COMMANDING

This Order No 119
Dated 10 Jul 47
Place: Brockville, Ont.

(Last Order No 118 d/9 Jul 47)

2. ABSENT WITHOUT LEAVE

(d) AWL from 0600 hrs 2 JUL 47
still absent 0600 hrs 10 JUL 47
(8th day)

SB 52082	PTE	BURGER	H P	RCIC	2 JUL 47

(Sgd) E R Friel

(E R FRIEL) CAPTAIN & ADJUTANT
THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)
BROCKVILLE, ONTARIO

CERTIFIED TRUE EXTRACT

(E R FRIEL) CAPT & ADJT
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, ONTARIO
10 MAY 49

PART II ORDERS

THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)

ISSUED BY

LT.COLONEL J M HOUGHTON OBE

OFFICER COMMANDING

This Order No 138
Dated 2 Aug 47
Place: Brockville, Ont.

(Last Order No 137 d/1 Aug 47)

6. STRENGTH DECREASE

(b) SOS des. having been decl. Illegally absent from 0600 hrs 2 JULY 47. by a Ct of Inq held on the 24 JULY 47. Deficiencies of kit to the value of $13.91

SB 52082 PTE BURGER H P RCIC 24 JUL 47

(Sgd) E R Friel

(E R FRIEL) CAPTAIN & ADJUTANT
THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)
BROCKVILLE, ONTARIO

CERTIFIED TRUE EXTRACT

(E R FRIEL) CAPT & ADJT
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, ONTARIO
10 MAY 49

PART II ORDERS

THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)

PUBLISHED BY

LT.COLONEL P R BINGHAM

COMMANDING OFFICER

This Order No 55
Dated 11 May 49
Place: Brockville, Ont.

(Last Order No 54 d/9 May 49)

2. STRENGTH INCREASE

(a) Having been SOS The Royal Canadian Regiment by Ct of Inq 24 Jul 47 TOS Regimental rate of pay Pte (3 yrs) on apprehension by civil authorities at Welland, Ontario

Cost of Apprehension:

Single fare Toronto to Brockville $4.53
Total cost of apprehension $4.53

SB 52082 PTE BURGER H P RCIC 2 MAY 49

(Sgd) J A Johnston

for (E R FRIEL) CAPTAIN & ADJUTANT
THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)
BROCKVILLE, ONTARIO

CERTIFIED TRUE EXTRACT

(E R FRIEL) CAPT & ADJT
THE ROYAL CANADIAN REGIMENT
BROCKVILLE, ONTARIO
10 MAY 49

I, SB 52082 Private Harold Peter BURGER, desire to have an officer assigned to represent me at my trial by District Court Martial.

I desire to have the services of ZP 1641 Captain J P Cook, RCR, if he is available.

H. Burger

(SB 52082 Pte BURGER H P)

BROCKVILLE, Ontario.

10 MAY 49

10 'D' [illegible]

Statement of SB 52082 Pte BURGER Harold Peter

My name is Harold Peter BURGER and I was born in the village of Stevensville, Ont on 6 Jan 1921. My father was a farmer and at the age of six I started to go to school in Bertie Township. I lived the normal life on the farm and at the age of thirteen I passed my high school entrance with honours.

After finishing public school I worked on my father's farm for five years until I was eighteen years of age. At that time I began working as a plumber's helper with R E Brown of Stevensville and remained with that firm until joining the Cdn army Active on 10 Jun 41.

One month and six days later I found myself aboard ship on my way overseas with the 9th Cdn Highland Bde. After considerable trg and during landing exercises on the Isle of Wight in Dec 42 I injured my left knee and was hospitalised for six weeks.

Eventually I found myself in the SASKATOON LIGHT INFANTRY (MG) and on my way with the rest of my comrades to SICILY and participated in every main battle fought by 1 Can Div. right through until the end of the war in Europe.

At the first opportunity I volunteered for the PACIFIC FORCE and left HOLLAND on 6Jun 45 arriving home in Jul and received my 30 days leave. After my leave I arrived back at Camp Barriefield and from there to Toronto for discharge on 14 Oct 45.

Immediately after my discharge I found employment at my old trade of plumbing with ERIE PLUMBING HEATING & SUPPLY 54 McAlpine St N Welland Ont. where I remained until June 1946 when I took a six month plumbing course at the Veterans Vocational training School in Hamilton. After graduation and receiving my credentials I joined the Union and went back to my job in Welland.

Shortly after I received an invitation in the form of a booklet to rejoin the army. The Contents of the book told me that as a veteran and a tradesman my services were urgently needed to help build Canada's New Army and that in the Engineers I, with my trade could help the critical accommodation shortage. This thought stirred me and I left my job which was paying $1.20 an hour and enlisted as a Plumber in The Royal Canadian ENGINEERS Cdn Army(AF) on 2 May 47.

A Few days later I was sent to The Royal Canadian Regiment where I was employed on Guard and Fatigue duties such as shovelling coal and ashes and washing dishes. I realized that this was a necessary part of army life but I had volunteered my services as a Plumber and was accepted as such. I applied for a transfer back to the Engineers but after what seemed like an unecessarily long time at fatigues I got no results. On the night of 1jul 47 I decided to have a talk with the Officer who enlisted me so early the next morning I started out but lost my nerve and went on to Welland. After a day or two thinking it over I went back to my old Job--as a Plumber.

"see page 2"

(Page 2 Cont)

The fact that I was AWL worried me considerably and I hoped that the army would pick me up as going back was a difficult thing to do. However I felt that my employment was at least doing something useful to help the national effort in the housing programe. I realized that I had broken a contract with the army but also felt that the army had broken a contract with me as I had volunteered to be a Plumber.

My most honourable intentions after Court Martial are to apply for a transfer to the Engineers as a Plumber. In that capacity I feel I could help relieve the housing shortage for personnel in the army which in turn should help to make happier and more contented soldiers.

H. Burger

(H P BURGER) Pte

11

"E" Detachment
Provost Corps

THE ROYAL CANADIAN REGIMENT

12 May 1949

TO WHOM IT MAY CONCERN:

I SL-1467 L/Cpl Hanley J. R. do here-by state that to my knowledge Pte Berger, with whom I was acquainted, was always a good soldier and during his Operational service was never charged with a serious offence. H e was at all times quite efficient in his work and never shirked his duties.

J. R. Hanley

J. R. Hanley L/Cpl.
The Royal Canadian Regiment

"F"
Cassmachell
Major
President DCM

PLEA OF MITIGATION FOR THE ACCUSED

SB 52082 PTE BURGER H P

Mr President and Members of the Court--allow me to sum up for the accused and point out a few salient factors which I consider are mitigating in this particular case.

You have heard evidence under oath that this soldier, and I quote "was at all times quite efficient in his work and never shirked his duties" unquote. You have also heard the accused tell his side of the story. We also know that he is a farm boy with a good education as his signed statement declares. This statement also points out very clearly his goal for which he has devoted so much time--that of being a plumber and of being of service to his country by virtue of his trade.

Let us for a moment put ourselves in the place of this veteran who has served his country and by his operational service helped to insure Democracy, which allows us to live, worship and work as we wish within the bounds of the laws which we the people make and enforce. He is now a man who has done his bit and is gainfully employed at a job of his own choosing. One day he recieves a very enticing piece of literature, which I produce for your inspection entitled "Canada's New Army". This book is personal as it is addressed to him--the veteran. The contents of this book produced the desired result. How can a veteran who was happy in the service fail to heed its urgent message. I could quote you many exhilerating passages from this book but as members of the Canadian Army (Active Force) I am satisfied that you have read it with interest.

Our veteran heeds the call and applies for enlistment and is accepted in the Corps of his choice as a plumber just like the book said would happen. I now offer for your inspection the MFM 182 or Identification Card of our newly re-enlisted veteran dated 2 May 47 at Long Branch, Ontario, showing his rank as Sapper, the Corps of his choosing, The Royal Canadian Engineers. Then it happened. In the words of the accused, and I quote "the army had broken a contract with me" unquote.

Please believe me when I say that I do NOT condone the actions of the accused in going AWL. However when faith appears shattered temptations are sometimes strong. Burger at least gave it a try before making his decision with proved to be wrong. His decision was to fight the battle of the peace with the same aggressiveness as he had been taught to fight the war.

The fact that he now stands before you is ample proof to himself and others like him that individual initiative MUST be directed along proper lines for the good of all and not for personal satisfaction.

The fate of this man is in your hands. He is willing to pay the price of his folly. I trust that the picture

...../2 (TUMBLE)

that I have tried to paint for you impresses you as it has me who met the accused for the first time two days ago. Your acquaintance with him, though of less duration, will undoubtedly be remembered by the accused for the rest of his days. He knows his punishment will be just and fair and with that knowledge we rest our case.

Thank you gentlemen for your consideration and interest.

13 "Y" Boarmarshall: Secretary to President D.C.M.

M.F.E. 3/46
D.C.M. 4-45 (7478)
H.Q. 1772-22-3
A.F.B. 295

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
SB 52082	Private	Harold Peter BURGER	R C R

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

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	Nil	times
For		times		times
For		times		times
For		times		times

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

for,

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

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

2. The accused has not been previously convicted

or,

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

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

or,

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

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 11 days in military ~~Air Force~~ custody, making a total of 11 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 28 years, 4 months

6. The date of his ~~commission~~ attestation ~~enrolment~~ specified in his ~~record of service~~ ~~enrolment form~~ attestation paper is 1 May 47

7. The service which the accused is allowed to reckon towards discharge is 2 years 12 days

8. The accused is entitled to reckon 4 years, 6 months service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward. 1939-45 Star, Italy Star, F & G Star, Defence Medal, CVSM, War Medal

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force~~ the regimental rank of [illegible]

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

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

.....dated.....

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

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

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 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, Number.....Rank..... Air Force Unit

Name.....of.....Regiment

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

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

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 13 MAY 49 day of (E R FRIEL) Captain & Adjutant RCA

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.

Reg. No. SB 52082 Name BURGER Harold Peter Corps RCIC Date of enlistment or enrolment 1 MAY 47 Date of Birth 9 JAN 24

Signature O.C. Company, etc. (Sgd) W E Garber Maj Sheet No. One of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				Nil Entries					
				Certified True Copy as of 0900 hrs 13 May 49					
				(E R FRIEL) Captain Adjutant, THE ROYAL CANADIAN REGIMENT					

M.F.M. 6-506M-4-45 (7234)
H.Q. 1772-39-1552

(P.T.O.)

H.Q.C. 55-B-3589

CONFIDENTIAL

H.F.R. 2678
25M—2-45 (9960)
H.Q. 301-1-52

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT DISTRICT COURT-MARTIAL

BEAULIEU, HUBERT SE.103469 PTE.

CONFIDENTIAL
H.Q.C. 55-B-3589

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
				JAG	NEW FILE	CR	17-6-49
JUN 28	25 6/49	PA	EJH	D Admin	To note & PA	[illegible]	21 6/49

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-3589 (JAG/O)

XXXXX

Office of the Judge Advocate General

21 Jun 49

Headquarters, Quebec Command,
3530 Atwater Avenue,
Montreal, P. Q.

District Court-Martial
SR.103469 Pte. Beaulieu, Hubert.

Receipt is acknowledged of your QC. SR-103469 (J) dated 15 Jun 49 enclosing proceedings of the s/n District Court-Martial.

2. These proceedings were entered in our records as No. 47079 on 20 Jun 49.

(W.M.W. Shaw) Lt.-Col.
for Judge Advocate General

H.Q. C.55-B-3589
M.D.

MEMORANDUM - DISTRICT COURT-MARTIAL

No SE 103469 Name BEAULIEU, Hubert

Rank Pte Unit St Jean Detachment, R 22e R

Charge AA 8(2) - Striking His Superior Officer

Date of Crime 16 May 1949

Date of Arrest 16 May 1949 Charge Signed 17 May 1949

Orders for D.C.M. 21 May 1949

Place and Date of Trial St Jean, P.Q., 25 May 1949

Sentence Ninety Days Detention

Date of Confirmation 2 June 1949

Date of Promulgation 9 June 1949

Entered in Records of J.A.G. as No. 47079

Date 20 June 1949

MEMO Accused found GUILTY of charge.

Remanded
23 June 49
1600
10 days.

for Judge Advocate-General

CONFIDENTIAL

IN REPLY PLEASE QUOTE No. QC. SE-103469 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

REGISTERED

MONTREAL, Que.,
15 Jun 49.

Registered to ..... JAG
JUN 17 1949
File No. C.55-B-3589
Chg'd to .....

Judge Advocate-General,
Department of National Defence,
Military Stores Bldg.,
OTTAWA, Ont.

District Court-Martial
SE-103469, Pte Hubert BEAULIEU, RCIC,
St.Jean Det., Royal 22e Regt., RCIC, CA.

Herewith the proceedings of the m/n Court-Martial forwarded for safe custody.

2. May this HQ be informed of the number of registration, please.

3. Action has been taken pursuant to CAO 62.3.

(J.V. ALLARD) Brigadier,
A/General Officer Commanding,
Quebec Command.

Inc/

NAT. DEF. 6. 440

MEDICAL OFFICER'S REPORT

I certify that No. SK103469 PTE BEAULIEU Hubert

of ST JEAN DET R22eR is in a good state of health,

and is fit to undergo Trial by Court martial.

M. Beaudreau Capt.

Medical Officer

(M A BEAUDREAU) CAPT & MO
ST JEAN DET "R22eR

Station ST JEAN QUE

Date 25 May 1949

M. F. B. 246

30M—9-44 (5437)
H.Q. 1772-39-480

A

FORMULE DE PROCES VERBAL DE COUR-MARTIALE
DE DISTRICT

Procès verbal d'une Cour-Martiale de District tenue aux Casernes de St-Jean, St-Jean, Qué., le 25e jour de mai 1949, par ordre du Colonel M.L. de ROME, Officier en charge de l'Administration, Région Militaire du Québec, en date du 21e jour de mai 1949.

PRESIDENT

ZD-250, Major Guy Grenier, C Int C, QG, Région Militaire du Québec, AC (FA)

MEMBRES

ZF-1838, Capt. M.J.L. Bru, RCA, No. 4 A & T Staff, AC (FA)

ZD-382, Capt. C.E. Laurencelle, RCIC, St-Jean Det., Royal 22e Regt., AC (FA)

ZC-1989, Maj G.A.M. Nantel, Liste Gen., AJAG, QG, Région Mil. du Québec, AC(FA) Juge-Avocat.

Procès de SD-103469, Pte Hubert BEAULIEU, RCIC, St-Jean Det., Royal 22e Regt., AC (FA)

L'ordre de convocation de la Cour, l'acte d'accusation et le sommaire de la preuve sont déposés devant la Cour.

La Cour s'assure que les prescriptions des Règles de Procédure 22 et 23 ont été observées. ¤

L'accusé est amené devant la Cour.

Procureur: ZD-518, Lieut L.J.L. Lefebvre, RCIC, Royal 22e Regt., St-Jean Det., AC (FA)

Officier défenseur: ZD-668, Capt. L.E. Clermont, RCIC, No.4 Sec A & T Staff, AC (FA)

L'audience commence à 1000 heures.

L'ordre de convocation de la Cour est lu et est marqué "X", signé par le Président et versé au dossier.

Les noms du président et des membres de la Cour sont lus à portée d'oreille de l'accusé et chacun d'eux répond à l'appel de son nom.

Q.1 du Président à l'accusé — Avez-vous objection à être jugé par moi comme Président, ou par un des officiers que vous venez d'entendre nommer?

R.1 de l'accusé — Non, monsieur.

¤ Je me suis assuré qu'aucun des officiers désignés comme membres de la présente Cour n'a précédemment fait partie d'un conseil d'enquête constitué en vue d'instruire l'affaire dont est saisie la présente Cour Martiale.

Président, C.M.D.

Le Président, les membres et le juge avocat sont dûment assermentés.

Q.2 Avez-vous objection à ce que Mademoiselle Flore Turcotte, employée civile, soit employée comme sténographe?

R.2 Non, monsieur.

Mademoiselle Flore Turcotte, employée civile, est dûment assermentée comme sténographe.

Acte d'accusation

L'acte d'accusation est signé par le Président, marqué "B-2" et versé au dossier.

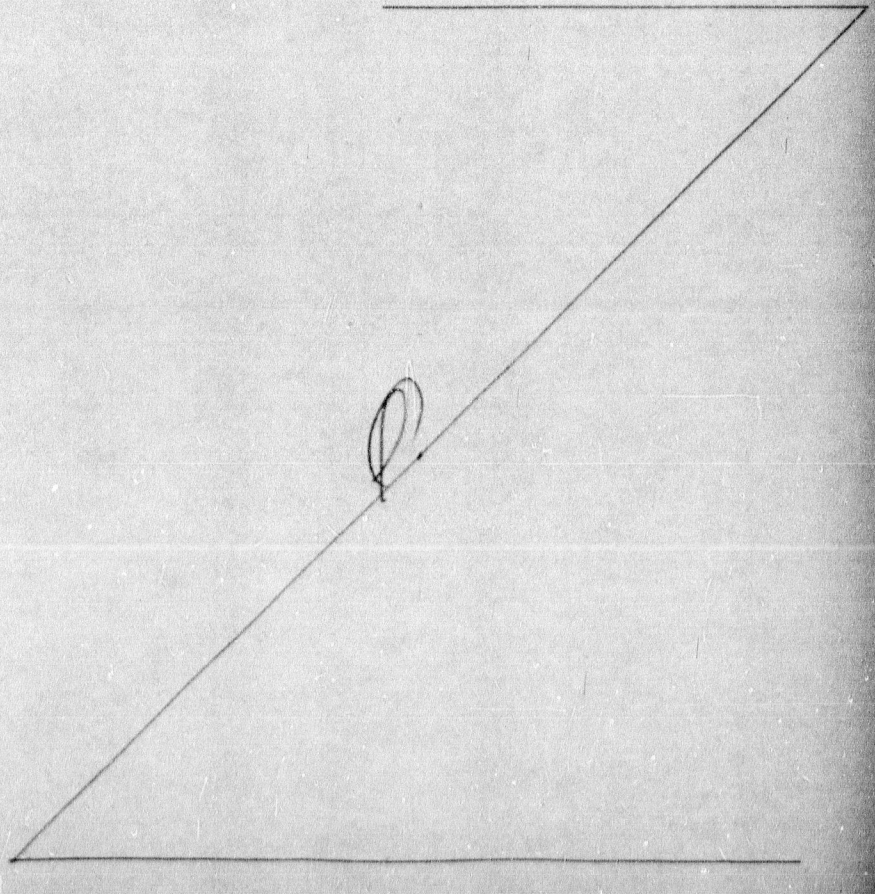
L'accusé est mis en accusation sur le chef mentionné dans l'acte d'accusation ci-dessus.

Q.3 Sont-ce là votre matricule, votre grade, votre nom et votre unité?

R.3 Oui, monsieur.

Q.4 Etes-vous coupable ou non du chef d'accusation porté contre vous et dont vous venez d'entendre lecture?

R.4 Non coupable, monsieur.



"B-2"

Convening Officer, District Court-Martial

CHARGE SHEET

The accused, SR-105469 Pte Hubert BEAULIEU, RCIC, St Jean Detachment, Royal 22e Regiment, a soldier of the Canadian Army (Active Force) is charged with:

CHARGE
Sec 8(2)
ARMY ACT

STRIKING HIS SUPERIOR OFFICER

In that he,

At St Jean, Que., at approximately 0030 hrs on the 16th day of May 1949, struck with his fist, in the face, Cpl V. TREMBLAY, RCIC, Royal 22e Regiment, attached to St Jean Detachment, Royal 22e Regiment.

St John's Barracks,
St Jean, Quebec, this
17th day of May 1949.

(G.F. CHARLEBOIS) MAJOR
A/COMMANDANT ST JEAN DETACHMENT
ROYAL 22e REGIMENT RCIC

To be tried by District Court-Martial.

Montreal, Que.,
21 May 1949.

(M.L. de ROMÉ) Colonel,
Officer i/c of Administration,
HQ Quebec Command, CA (AF)

PROCEDURE SUR UNE DENEGATION DE CULPABILITE

Q.5 Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour la préparation de votre défense?

R.5 Non, monsieur.

Le Procureur ne désire pas donner un exposé des faits.

Le Procureur procède à l'appel des témoins.

Premier témoin à charge. SD-126505, Cpl Viateur Tremblay, RCIC, Royal 22e Regt., St-Jean Det., étant dûment assermenté, est interrogé par le Procureur:-

Q.6 Voulez-vous donner à la Cour, votre numéro de matricule, votre rang, votre nom et votre emploi?

R.6 SD-126505, Cpl Viateur Tremblay, RCIC, Royal 22e Regt., St-Jean Det., monsieur.

Q.7 Est-ce que vous pouvez identifier l'accusé?

R.7 Oui, monsieur.

Q.8 Quel est son nom?

R.8 Pte Beaulieu, monsieur.

Q.9 Voulez-vous le pointer à la Cour?

R.9 Oui, monsieur. (Le témoin pointe l'accusé du doigt)

Q.10 Pourriez-vous nous dire, au sujet d'une charge "striking his superior officer" d'avoir frappé son officier supérieur, voulez-vous nous dire ce que vous en savez?

R.10 Le 16 mai, à environ 0030 heures, je sortis du restaurant St-Jean avec le L/Cpl St-Onge. C'est alors que l'accusé m'invita à me battre pour des raisons que je ne connais pas. Je lui ai dit qu'il était mieux d'aller se coucher. Là, il m'a menacé de me défaire la face; il m'a pris par le revers de mon veston, ensuite m'a donné une jambette et je tombai par terre. Je me suis relevé et peu après il m'a frappé à la figure du côté droit. J'ai continué mon chemin vers le camp et rendu à la barrière, Pte Beaulieu a voulu me battre encore. Je suis allé me coucher et le lendemain matin, à 0845 heures, j'ai fait la charge, monsieur.

Q.11 Lorsque vous dites qu'il vous a frappé, de quelle manière vous a-t-il frappé?

R.11 Avec son poing, monsieur.

Q.12 Est-ce que le soldat Beaulieu était sobre?

R.12 Je ne pourrais pas rien dire là-dessus, monsieur, je ne le sais pas moi-même, monsieur.

Q.13 Est-ce que le soldat Beaulieu vous connaissait?

R.13 Oui, monsieur.

Q.14 Quand l'aviez-vous vu la dernière fois?

R.14 Une couple d'heures auparavant, je crois, monsieur.

Q.15 Est-ce que vous étiez en bonnes relations avec lui?

R.15 Oui, monsieur.

TRANSQUESTIONNE PAR L'OFFICIER DEFENSEUR

Q.16 Pourriez-vous nous dire d'où vous veniez, le 16 mai, lorsque vous avez rencontré Pte Beaulieu?

R.16 Je sortais du restaurant St-Jean, Monsieur.

Q.17 Est-ce que vous avez été à un autre endroit que le restaurant St-Jean?

R.17 Je venais d'arriver de Chambly, monsieur.

Q.18 Qu'est-ce que vous avez fait à Chambly?

R.18 J'ai des parents à Chambly, monsieur.

Q.19 Vous avez visité vos parents?

R.19 Oui, monsieur.

Q.20 Avez-vous déjà eu quelque chose à faire avec Beaulieu auparavant?

R.20 Je connais le Pte Beaulieu, monsieur; je n'ai jamais été en mauvaises relations avec lui.

Q.21 Auriez-vous déjà empêché une conversation téléphonique entre Pte Beaulieu et une autre partie?

R.21 Jamais, monsieur.

Q.22 Quelles sont les paroles que vous avez proférées lorsque Pte Beaulieu, apparemment, d'après votre gémoignage, vous aurait incité à se battre? Qu'est-ce que vous avez dit?

R.22 Je lui ai dit que je ne lui avais rien fait et qu'il ferait mieux d'aller se coucher.

Q.23 Quelle était l'apparence du soldat Beaulieu, est-ce qu'il avait l'air d'un homme sobre, choqué, comme quelqu'un qui est en colère?

R.23 Il avait l'air d'un homme en colère.

Q.24 Est-ce qu'il sentait la boisson?

R.24 Je ne pourrais pas vous dire, monsieur.

Q.25 A quel endroit étiez-vous lorsqu'il vous a invité à vous battre?

R.25 Contre le restaurant St-Jean, monsieur.

Q.26 Est-ce que vous étiez seul?

R.26 Non, monsieur.

Q.27 Avec qui?

R.27 Avec le L/Cpl St-Onge, monsieur.

C-5

Q.28 Est-ce qu'il y avait d'autres personnes alentour?

R.28 Le Pte Verreault, monsieur.

Q.29 Vous dites qu'il vous a frappé avec son poing?

R.29 Oui, monsieur.

Q.30 Est-ce que vous vous êtes défendu?

R.30 Non, monsieur.

Q.31 Qu'est-ce qui se serait passé entre le moment où il vous a frappé et le moment où vous avez rencontré Pte Beaulieu pour la deuxième fois?

R.31 Il marchait en avant de nous autres.

Q.32 Seul?

R.32 Non, avec le Pte Derepentigny.

Q.33 Est-ce que vous étiez en civil?

R.33 Oui, monsieur.

Q.34 Quelle température faisait-il? Est-ce qu'il faisait noir, clair?

R.34 Il faisait une belle température, il ne faisait pas trop noir.

Q.35 Vous pouriez voir son visage?

R.35 Oui, monsieur.

Q.36 Vous pouviez identifier sans aucun doute que c'était lui-même qui était là?

R.36 Oui, monsieur.

Q.37 INTERROGE PAR LA COUR

Ca fait combien de temps que vous connaissez Pte Beaulieu?

R.37 J'ai/le Pte Beaulieu pour la première fois, l'été / vu dernier à Valcartier, monsieur.

Q.38 Depuis ce temps-là, vous avez toujours été ensemble?

R.38 Non, monsieur.

Q.39 Il y a combien de temps que vous êtes ensemble à St-Jean?

R.39 On n'est pas ensemble à St-Jean, monsieur, je suis arrivé à St-Jean depuis environ 3 mois.

Q.40 Depuis que vous connaissez l'accusé, avez-vous toujours été Caporal?

R.40 Oui, monsieur.

Q.41 Avez-vous déjà été son instructeur?

R.41 Je ne crois pas, monsieur.

DE L'AVIS DE LA COUR et DU JUGE-AVOCAT, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P. 83 (B).

LE TEMOIN SE RETIRE.

Deuxième témoin à charge

SC-57974, L/Cpl Edmond St-Onge, R 22e R, St-Jean Det., RCIC, étant dûment assermenté, est interrogé par le Procureur:-

Q.42 Pourriez-vous donner à la Cour votre numéro de matricule, votre rang, votre nom et votre Unité?

R.42 SC-57974, L/Cpl Edmond St-Onge, Royal 22e Regt., RCIC, St-Jean Det., monsieur.

Q.43 Pourriez-vous en indiquant l'accusé nous donner son nom s'il-vous-plaît?

R.43 Pte Beaulieu, H., monsieur. (Le témoin pointe l'accusé du doigt).

Q.44 En rapport avec une charge d'avoir frappé son officier supérieur, pourriez-vous nous donner votre témoignage?

R.44 Le 16 mai 1949, vers 0030 heures, lorsque le Cpl. Tremblay et moi sortions du restaurant St-Jean, Pte Beaulieu nous approcha et s'adressa au Cpl Tremblay en lui disant "je vais te battre, je vais te défaire la face". Ensuite il l'a fait tomber en lui donnant une jambette. Lorsque le Cpl Tremblay s'est relevé, le Pte Beaulieu l'a frappé avec son poing droit sur le côté droit du visage. Là le Pte Beaulieu s'est en allé en avant et moi je m'en venais avec le Cpl Tremblay. Lorsque j'arrivai au camp, je suis allé à la "guard room", j'ai fait mon rapport au Sgt. du Jour et il m'a dit d'attendre au lendemain.

Q.45 A quel endroit cette chose-là s'est-elle produite?

R.45 Sur la rue Richelieu, à St-Jean, monsieur.

Q.46 Est-ce qu'il faisait clair ou si c'était sombre?

R.46 Il faisait assez noir, il n'y avait que les lumières de la rue qui éclairaient un peu.

TRANSQUESTIONNE PAR L'OFFICIER DEFENSEUR

Q.47 Est-ce que vous avez accompagné le Cpl Tremblay jusqu'au camp?

R.47 Pour un bout, après ça, le Cpl Tremblay s'est en allé en avant de moi.

Q.48 A combien de distance?

R.48 Vous dire au juste, je ne peux pas.

Q.49 Est-ce que vous êtes arrivés en même temps au camp?

R.49 Oui.

Q.50 Est-ce que vous étiez tous les deux à la "guard room"?

R.50 Non, monsieur, j'ai ensuite rencontré le Cpl Tremblay.

Q.51 Combien de temps?

R.51 Environ 2 minutes.

Q.52 Vous marchiez vite ou lentement?

R.52 Un pas ordinaire, monsieur.

Q.53 Est-ce que vous avez vu Pte Beaulieu alentour de la "guard room"?

R.53 Oui, il était à la porte.

Q.54 Quelle porte?

R.54 Il était à la "gate", monsieur.

Q.55 Qu'est-ce qu'il faisait là?

R.55 Il a parlé au Cpl Tremblay.

Q.56 Quel était le genre de conversation qu'ils avaient?

R.56 Je ne le sais pas, monsieur.

Q.57 Comme sous-officier, vous avez dû certainement, après ce qui s'était passé, avoir une oreille spéciale sur Beaulieu, cela a dû vous frapper de voir les deux mêmes types discuter ensemble?

R.57 Après ce qui s'était passé, je savais ce qui allait se passer encore, monsieur.

Q.58 Quelle était leur relation? Se battre encore ou se serrer la main pour se reconcilier?

R.58 Discuter de la chose qui s'était passé, encore.

Q.59 Sur quel ton discutaient-ils?

R.59 Je ne sais pas. Je n'ai pas attendu assez longtemps pour ça.

Q.60 Quand vous les avez vus, à quelle distance étaient-ils?

R.60 Je ne le sais pas.

Q.61 Vous étiez assez près pour distinguer entre le Pte Beaulieu et le Cpl Tremblay qui discutaient ensemble?

R.61 Oui, monsieur.

Q.62 Si vous les avez remarqués, vous pouvez dire à la Cour de quelle façon ils discutaient à ce temps-là. Quelle attitude avaient-ils?

R.62 L'attitude de deux hommes qui se chicanent, monsieur.

Q.63 Est-ce qu'ils parlaient fort?

R.63 Assez fort, monsieur.

Q.64 Est-ce qu'il y a eu un échange de coups?

R.64 Pas à la "guard room", monsieur.

Q.65 Savez-vous ce qui s'est dit?

R.65 Non, monsieur.

Q.66 Savez-vous s'ils parlaient assez fort?

R.66 Je n'ai pas arrêté là, moi je suis parti et je suis allé me coucher.

Q.67 Vous avez remarqué ces deux personnages qui auparavant avaient eu une altercation, alors certainement, comme sous-officier cela a dû attirer votre attention au point de vue discipline. Si vous aviez fait un rapport tout de suite, c'était autant pour sa protection personnelle.

R.67 Ce n'est pas de mon devoir à moi, monsieur.

Q.68 Maintenant où étiez-vous au moment de l'incident exactement? Où avez-vous été avant de sortir du restaurant de St-Jean? Vous seriez parti du camp aux alentours de 1630 heures?

R.68 J'ai été au club, monsieur.

Q.69 Quel club?

R.69 Champlain, monsieur.

Q.70 Qu'est-ce que c'est, que le club Champlain?

R.70 C'est une taverne, autrement dit.

Q.71 A quelle heure êtes-vous entré à la taverne?

R.71 Je ne le sais pas, monsieur.

Q.72 Quand vous êtes parti du camp, est-ce qu'il faisait clair?

R.72 J'ai sorti vers 7 heures et demie ou 8 heures.

Q.73 Vous êtes entré vers quelle heure à la taverne Champlain?

R.73 Vers 8 heures et dix, à peu près.

Q.74 A quelle heure vous êtes sorti de la taverne?

R.74 Vers minuit moins vingt.

Q.75 Qu'est-ce que vous avez fait, vous avez pris un coup?

R.75 Certainement, c'est l'endroit pour ça.

Q.76 Vous rappelez-vous du montant que vous avez dépensé?

R.76 Ca, c'est mon argent à moi, monsieur.

Q.77 Je ne vous demande pas le montant exact?

R.77 Je n'en ai pas pris gros, je n'avais pas d'argent.

Q.78 De là vous êtes allé au restaurant?

R.78 Je suis parti de l'Hôtel Champlain et je suis allé au restaurant.

Q.79 Est-ce que vous avez vu Pte Beaulieu?

R.79 Il est venu après moi.

Q.80 Au moment de l'altercation, où étiez-vous? A gauche, à droite, en avant, en arrière?

R.80 Où, ça, monsieur.

Q.81 Au moment où Pte Beaulieu s'est rencontré avec le Cpl Tremblay.

R.81 A droite du Cpl Tremblay, monsieur. C'est moi qui a sorti le premier du restaurant, monsieur.

Q.82 Ca s'est passé au moment où vous sortiez du restaurant?

R.82 Un peu plus loin, monsieur.

Q.83 Avez-vous fait route ensemble?

R.83 Oui, monsieur.

Q.84 Est-ce qu'il était sobre?

R.84 Ca, je ne le sais pas.

Q.85 Est-ce qu'il sentait la boisson?

R.85 Je ne sais pas. Je n'ai pas été assez proche pour savoir ça?

Q.86 A quelle distance étiez-vous?

R.86 J'étais à 5 ou 6 pieds de lui.

Q.87 Maintenant, pour le bénifice de la Cour, pourriez-vous répéter dans vos propres mots, de quelle façon la chose s'est passée?

R.87 C'est lorsqu'on a sorti, le Cpl et moi. Auparavant, Pte Beaulieu et Pte Charpentier étaient sortis avant nous.

Q.88 Alors, vous les aviez déjà vus dans le restaurant?

R.88 Certainement.

Q.89 Est-ce qu'ils parlaient?

R.89 Comme j'ai dit tout à l'heure, le Cpl Tremblay et moi on était en arrière. Tout à coup, Beaulieu est revenu et a commencé à menacer le Cpl Tremblay.

Q.90 De quelle façon?

R.90 De la façon que j'ai dit tout à l'heure: "je vais te battre et je vais te défaire la face". Là il l'a fait tomber en lui donnant une jambette et là le Pte Beaulieu l'a frappé du côté droit du visage avec son poing droit. Cpl Tremblay lui a dit: "t'es mieux d'aller te coucher et tout ça", et ça continué à s'engueuler. Beaulieu s'est en allé en avant et nous autres on a suivi.

Q.91 Est-ce qu'il marchait droit ou s'il titubait?

R.91 Il marchait assez droit.

INTERROGE PAR LE JUGE AVOCAT

Q.92 Est-ce que Pte Beaulieu et Cpl Tremblay étaient en civil?

R.92 Oui, monsieur.

Q.93 Est-ce qu'il semblait que Beaulieu connaissait Cpl Tremblay?

R.93 Certainement, tous deux du même régiment et tous deux de St-Jean, au même camp, comme ils doivent se connaître.

Q.94 Vous êtes-vous rendu compte qu'ils se connaissaient?

R.94 Certainement, monsieur.

Q.95 Voulez-vous expliquer à la Cour quelle sorte de coups qu'il s'est donné lorsque Tremblay s'est relevé?

R.95 Lorsque le Cpl Tremblay s'est relevé, Pte Beaulieu est venu lui adresser la parole, Beaulieu lui a donné un coup de poing sur le côté droit du visage.

Q.96 Vous étiez assez près pour voir ça?

R.96 Oui, monsieur.

INTERROGE PAR LE PRESIDENT

Q.97 Est-ce que le Cpl Tremblay et Pte Beaulieu se sont parlé avant de sortir du restaurant?

R.97 Il n'y a que moi qui ai parlé à Beaulieu. Beaulieu est allé au "rest room" et il est revenu. Je lui ai dit: "bonsoir" et il est allé s'asseoir au bar et il ne m'a pas répondu.

Q.98 Vous ne les avez pas vus parler ensemble?

R.98 Je ne les ai pas vus parler ensemble.

DE L'AVIS DE LA COUR ET DU JUGE AVOCAT, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P. 83 (B).

LE TEMOIN SE RETIRE.

Troisième témoin à charge

SD-190672, Pte J.E.G. Charpentier, RCIC, Royal 22e Regt., St-Jean Det., étant dûment assermenté est interrogé par le Procureur:-

Q.99 Pourriez-vous donner à la Cour, votre numéro de matricule, votre rang, votre nom et votre Unité?

R.99 SD-190672, Pte Charpentier, J.E.G., Royal 22e Regt., St-Jean Det., RCIC.

Q.100 Pourriez-vous pointer à la Cour, l'accusé et nous donner son nom?

R.100 Pte Beaulieu, monsieur. (Le témoin pointe l'accusé du doigt).

Q.101 A propos d'une charge que Beaulieu aurait frappé son officier supérieur, qu'est-ce que vous savez-là-dessus?

R.101 Quand le Cpl Tremblay s'est relevé, quand...

Q.102 Racontez du commencement, toute l'affaire.

R.102 Il était 1205 heures le 16 mai, en débarquant de l'autobus, j'ai rencontré le Pte Beaulieu au restaurant St-Jean. On a jasé et ensuite on a pris un coke bien tranquillement et puis on a fumé. Après ça il est allé voir le Sgt. Bailey. Quand il est revenu le L/Cpl St-Onge lui a dit: "bonsoir" et il n'a pas répondu. Quand il a vu ça le L/Cpl St-Onge l'a pris par le bras et Pte Beaulieu s'en n'est pas occupé. Il m'a demandé si je voulais m'en revenir au camp. Je lui ai dit que ça ne me faisait rien. Là il a dit qu'il voulait les battre. En revenant au camp il m'a donné son "coat" et il a pris le Cpl Tremblay par son veston, lui a donné une jambette et l'a fait tomber à terre. Quand il s'est relevé, il l'a frappé. Un peu après ça il a repris son "coat" et rendu au parc il m'a dit, le Pte Beaulieu, qu'il voulait les battre encore, seulement il ne l'a pas fait, ils ont parlé pendant un petit bout de temps et on s'est en revenu au camp.

Q.103 De quelle manière a-t-il frappé le Cpl Tremblay?

R.103 Le Cpl Tremblay quand il s'est relevé, d'abord il lui a donné une claque en se relevant. Il l'a chamaillé un peu et il l'a brassé un peu.

Q.104 Est-ce que le Cpl Tremblay avait parlé au Pte Beaulieu dans le restaurant?

R.104 Non, il ne lui avait pas parlé.

TRANSQUESTIONNE PAR L'OFFICIER DEFENSEUR

Q.105 Vous dites que le L/Cpl St-Onge a pris Pte Beaulieu par le bras dans le restaurant?

R.105 Quand St-Onge lui a dit "bonsoir" Beaulieu ne lui a pas répondu et il lui a demandé de lui dire "bonsoir".

Q.106 De quelle façon?

R.106 Beaulieu venait pour s'en aller et il l'a arrêté comme ça.

Q.107 Est-ce que le L/Cpl St-Onge était en uniforme ou en civil?

R.107 En uniforme, monsieur.

Q.108 Est-ce que le Pte Beaulieu était en uniforme?

R.108 Non, monsieur.

Q.109 Est-ce que le Cpl Tremblay était en uniforme?

R.109 Non, monsieur.

Q.110 Vous dites que le Cpl Tremblay a tombé?

R.110 Oui, monsieur.

Q.111 De quelle façon?

R.111 Le Pte Beaulieu lui a donné une jambette.

Q.112 Où étiez-vous?

R.112 J'étais là.

Q.113 Oui, je comprends. A combien de distance étiez-vous d'eux?

R.113 Pas moins de 10 pieds, monsieur.

Q.114 Vous êtes sûr que Pte Beaulieu a frappé Cpl Tremblay?

R.114 Monsieur, il voulait le frapper, il l'a touché. Il a paré le coup, mais il l'a touché pareil.

Q.115 Est-ce que c'est une poussée?

R.115 Ce n'était pas vraiment un coup, je crois que c'était juste une taloche en plein visage.

Q.116 Est-ce que c'était en matière de jeu ou avec colère ou accompagné de jurons?

R.116 Avec colère, monsieur.

Q.117 Comment pouvez-vous le dire?

R.117 De la manière qu'il l'a regardé quand il lui a dit: "je vais te défaire la face".

Q.118 Est-ce que Pte Beaulieu était sobre?

R.118 Il avait pris un peu de boisson.

Q.119 Est-ce que Pte Beaulieu était un homme en boisson au moment où la chose s'est passée?

R.119 Il sentait la boisson, mais je l'ai déjà vu pire que ça.

Q.120 Est-ce qu'il était pompette ou plus que pompette?

R.120 Il n'était pas pompette, il filait bien.

Q.121 Après l'argument, qu'est-ce que vous avez fait?

R.121 J'ai juste tenu son manteau. Il l'a ôté et il me l'a donné.

Q.122 Est-ce qu'il vous a dit quelque chose en l'ôtant?

R.122 Il m'a dit: "tiens ça".

Q.123 Ensuite?

R.123 Bien, ensuite on a marché.

Q.124 Vous marchiez avec Pte Beaulieu côte à côte?

R.124 Oui, monsieur.

Q.125 Jusqu'où?

R.125 Jusqu'à la garde.

Q.126 Est-ce qu'il y a quelque chose qui s'est passé?

R.126 Le Cpl Tremblay lui a dit qu'il était pour payer son manteau qu'il lui a déchiré. Beaulieu lui a répondu "Jamais je te le payerai ton manteau".

Q.127 Quand a-t-il dit cela?

R.127 A la barrière.

INTERROGE PAR LE PRESIDENT

Q.128 Vous avez dit que Pte Beaulieu avait pris de la boisson, est-ce que il déparlait?

R.128 Non, monsieur.

Q.129 Il savait ce qu'il disait?

R.129 Oui, monsieur.

Q.130 Est-ce qu'il était en colère à ce moment-là?

R.130 Oui, monsieur.

Q.131 Pourquoi était-il en colère, le savez-vous?

R.131 Parce qu'il était avec une fille, quand j'ai rentré et après ça la fille est entrée et est allée s'asseoir tout seule. Là il a dit que c'était parce qu'il s'était fait

couper le téléphone.

Q.132 Pourquoi?

R.132 Pour la fille, oui, monsieur.

Q.133 Est-ce qu'il vous l'a dit?

R.133 Oui, monsieur.

Q.134 En rapport avec la demoiselle qui était rentrée?

R.134 Oui, monsieur.

Q.135 Etait-il assez en colère pour mettre le poing sur le comptoir?

R.135 Non, monsieur.

Q.136 Est-ce qu'il voyait rouge, comme on dit?

R.136 Non, monsieur. On ne peut pas dire ça.

Q.137 Le nom du Cpl Tremblay est venu dans la conversation quand il était en colère?

R.137 Non, monsieur. Juste après qu'il a parlé au Sgt Farley, après ça il est revenu.

Q.138 Il vous a parlé de ça?

R.138 Il a parlé du Cpl St-Onge.

INTERROGE PAR LE JUGE AVOCAT

Q.139 Quand vous dites que le Cpl Tremblay a paré le coup, est-ce que Pte Beaulieu avait le poing fermé?

R.139 Oui, monsieur.

Q.140 Il avait le poing fermé?

R.140 Oui, monsieur.

Q.141 Vous dites qu'il a donné un coup de poing, il ne l'a pas donné aplomb, parce qu'il l'a paré?

R.141 Oui, monsieur.

Q.142 De quelle manière s'adressait-il au Cpl Tremblay? Est-ce qu'il l'appelait Cpl ou simplement par son nom, Tremblay?

R.142 Juste par son nom, Tremblay, monsieur.

Q.143 Saviez-vous que le Cpl Tremblay était Cpl?

R.143 Oui, monsieur.

Q.144 Lorsque Pte Beaulieu vous a parlé au cours de la conversation, vous pouviez constater qu'il savait que Tremblay était caporal?

R.144 Ah, oui!

DE L'AVIS DE LA COUR ET DU JUGE AVOCAT, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P. 83 (B).

LE TEMOIN SE RETIRE.

Quatrième témoin à charge

SE-103606, Pte Jean-Marie VERREAULT, Royal 22e Regt. St-Jean Det., étant dûment assermenté, est interrogé par le Procureur:-

Q.145 Voulez-vous donner à la Cour votre numéro de matricule, votre rang, votre nom, votre corps, votre unité?

R.145 SE-103606, Pte Jean-Marie Verreault, Royal 22e Regt., RCIC, St-Jean Det.

Q.146 Pouvez-vous pointer l'accusé et le nommer?

R.146 Pte Beaulieu, dans le milieu, monsieur. (Le témoin pointe l'accusé du doigt).

Q.147 A propos d'une charge d'avoir frappé son officier supérieur, qu'est-ce que vous savez là-dessus?

R.147 Pour avoir frappé, monsieur, il ne l'a pas frappé. Vers 0030 heures, le 16 mai 1949, moi, le L/Cpl St-Onge et le Cpl Tremblay on marchait sur le trottoir. Beaulieu est venu et a parlé au Cpl Tremblay et il l'a jeté à terre. Il s'est relevé et là le Pte Beaulieu lui a dit: "est-ce que tu vas m'en couper encore des téléphones". Ils se sont mis à se chamailler et Tremblay s'est retourné et a dit: "il a déchiré mon coat" et là nous sommes rentrés aux casernes.

Q.148 Est-ce que vous savez comment ça se fait que le "coat" a été déchiré?

R.148 Non, monsieur.

Q.149 Vous dites qu'il n'a pas frappé le Cpl Tremblay?

R.149 Non, monsieur, je ne l'ai pas vu.

Q.150 Vous ne l'avez pas vu, c'est différent?

R.150 C'est entendu

TRANSQUESTIONNE PAR L'OFFICIER DEFENSEUR

Q.151 Où étiez-vous le 16 mai, quelle était votre position, vous dites que vous étiez avec le Cpl Tremblay et le L/Cpl St-Onge et le soldat inculpé, Beaulieu, vous où étiez-vous?

R.151 En arrière de Beaulieu, monsieur. En avant du Caporal.

Q.152 Vous étiez en groupe, tous les trois?

R.152 On était en groupe, tous les trois, monsieur.

Q.153 Vous avez dit au commencement de votre témoignage que le Pte Beaulieu n'a pas frappé le Cpl Tremblay?

R.153 Non, monsieur.

Q.154 Sur quoi basez-vous cette assertion?

R.154 C'est parce qu'il ne peut pas l'avoir frappé. D'après moi c'est du chamaillage et Tremblay a tombé par terre.

Q.155 Etiez-vous là?

R.155 J'ai vu Tremblay tomber à terre.

Q.156 La cause?

R.156 C'est peut-être l'équilibre qui a manqué, monsieur.

Q.157 Si vous l'avez vu tomber, vous regardiez Tremblay? Tout à coup il a tombé, est-ce que vous étiez là, vous le regardiez?

R.157 Non, pour dire la cause qu'il est tombé, je ne l'ai pas vu.

Q.158 Mais regardiez-vous Tremblay au moment où il a tombé comment pouvez-vous dire que Beaulieu ne l'a pas frappé?

R.158 Parce que je l'ai vu à terre, monsieur.

Q.159 L'avez-vous vu avant qu'il arrive à terre?

R.159 Non, monsieur.

Q.160 Qu'est-ce qui est arrivé après ça?

R.160 Il s'est relevé et a dit que son "coat était déchiré".

Q.161- Comment pouvez-vous dire que Beaulieu n'a pas frappé Tremblay?

R.161 Moi, je ne l'ai pas vu frapper.

Q.162 Est-ce que vous avez continué de faire route avec l'inculpé jusqu'au camp?

R.162 Non, monsieur, j'étais avec le L/Cpl St-Onge et le Cpl Tremblay.

Q.163 Est-ce que vous avez entendu des brins de conversation entre Pte Beaulieu et Cpl Tremblay, entre le temps où Tremblay se relève et que Beaulieu se recule.

R.163 Je crois que non.

INTERROGE PAR LE PRESIDENT

Q.164 Vous étiez dans le restaurant avec ce groupe-là?

R.164 Nous étions assis, le Cpl Tremblay, le L/Cpl St-Onge et moi.

Q.165 Cpl Tremblay ne vous a pas fait mention de Pte Beaulieu du tout pendant que vous étiez avec eux autres?

R.165 Non, monsieur.

Q.166 INTERROGE PAR LE JUGE AVOCAT

Quand Cpl Tremblay est tombé, vous étiez à quelle distance?

R.166 C'est bien embêtant.

Q.167 A peu près?

R.167 Une quinzaine de pieds environ.

Q.168 L/Cpl St-Onge, où était-il?

R.168 Il était en arrière de nous autres, avec nous autres.

Q.169 Vous ne vous expliquez pas comment Cpl Tremblay serait tombé par terre?

R.169 Je ne/pas expliquer, monsieur. /peux

Q.170 Savez-vous que vous êtes sous serment? Voulez-vous nous dire ce que vous savez?

R.170 Ce que je sais, monsieur, je viens de vous le dire.

Q.171 Je vous demande si vous vous expliquez pourquoi Cpl Tremblay est tombé par terre?

R.171 Je vous l'ai dit tout à l'heure.

Q.172 Savez-vous pourquoi Tremblay est tombé à terre?

R.172 Non, monsieur.

Q.173 Qu'est-ce que Beaulieu et Tremblay faisaient pendant que vous étiez à quinze pieds?

R.173 Ils se tiraillaient, monsieur.

Q.174 Et vous ne savez pas pourquoi Tremblay serait tombé par terre, tous étiez trop loin pour voir?

R.174 Ce n'était pas en plein jour, c'était le soir.

Q.175 Il n'y avait pas de lumière?

R.175 Non, monsieur.

Q.176 Avez-vous vu le paletot déchiré du Cpl Tremblay?

R.176 Oui, monsieur.

Q.177 Où cela se serait-il produit?

R.177 Pendant qu'ils se chamaillaient?

Q.178 A quel endroit qu'ils se chamaillaient?

R.178 Sur la rue, monsieur.

Q.179 Près d'où?

R.179 Près du restaurant St-Jean.

Q.180 Est-ce que c'était loin du restaurant St-Jean?

R.180 Assez, monsieur.

Q.181 Auriez-vous entendu des conversations entre Beaulieu et Tremblay?

R.181 Non, monsieur.

Q.182 Avez-vous pris un coup ce soir-là?

R.182 J'avais pris une bouteille de bière.

Q.183 Vous n'étiez pas en état d'ivresse?

R.183 Non, monsieur.

C-29

Q.184 Comment se fait-il que vous ne vous souveniez de rien?

R.184 Je me souviens de quelque chose, je viens de vous le dire, monsieur.

INTERROGE DE NOUVEAU PAR LE PRESIDENT

Q.185 Vous dites qu'il faisait noir, est-ce que vous avez remarqué le visage de Beaulieu?

R.185 Oui, monsieur.

Q.186 Le visage de Tremblay?

R.186 Oui, monsieur.

Q.187 Le visage de L/Cpl St-Onge?

R.187 Oui, monsieur.

Q.188 Alors vous étiez à 15 pieds?

R.188 Oui, monsieur.

Q.189 Il faisait assez clair pour les voir?

R.189 Oui, monsieur. On pouvait les différencer.

Q.190 Est-ce qu'il y avait des lumières dans les environs?

R.190 Oui, monsieur.

Q.191 Vous les avez vus se chamailler tous les deux, et vous ne savez pas pourquoi?

R.191 Je vous l'ai dit au commencement l'à-propos de ça, c'est que Beaulieu s'est reviré et lui a demandé s'il voulait lui couper le téléphone.

Q.192 Vous n'étiez pas plus loin que Cpl Tremblay et le L/Cpl St-Onge, vous étiez dans le même groupe? Est-ce que vous n'avez pas remarqué?

R.192 Peut-être que je n'ai pas remarqué. Vous savez, moi ces affaires-là, je n'aime pas ça et je me suis reculé près du mur de la bâtisse.

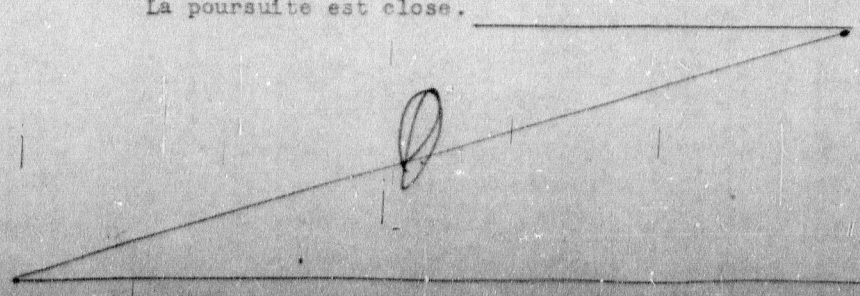
Q.193 Vous saviez qu'il était pour avoir une bataille?

R.193 Oui, monsieur.

DE L'AVIS DE LA COUR ET DU JUGE AVOCAT, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P. 83 (B).

LE TEMOIN SE RETIRE.

La poursuite est close.



La poursuite est close.

DEFENSE

Q.194 Désirez-vous rendre témoignage?

R.194 Oui, monsieur.

Q.195 Avez-vous l'intention de citer d'autres témoins pour votre défense?

R.195 Oui, monsieur.

R.P. 40 & 41 expliquées par le Juge-avocat.

Premier témoin à décharge — SE-103469, Pte Hubert BEAULIEU, RCIC, Royal 22e Regt., St-Jean Det., étant dûment assermenté est interrogé par l'officier défenseur:-

Q.196 Voulez-vous vous identifier devant la Cour, donner votre numéro régimantaire, votre rang, nom et unité?

R.196 SE-103469 Pte Beaulieu H., R.C.I.C., Royal 22e Regt., St-Jean Detachment.

Q.197 Voulez-vous expliquer à la Cour, dans vos propres termes, ce qui s'est passé le 16 mai, vers 0030 heures ou 1/2 heure avant minuit?

R.197 J'étais sous l'influence de la boisson, je ne me rappelle pas de rien du tout.

Q.198 Quand avez-vous commencé à penser à ce qui aurait pu se passer cette nuit-là?

R.198 Le lendemain matin, je me suis levé et les gars m'ont dit que j'avais fessé le Cpl Tremblay.

Q.199 Qu'est-ce que vous avez fait?

R.199 J'ai embarqué sur la parade, et après on m'a fait demander pour rendre témoignage.

Q.200 Est-ce que vous avez offert à Tremblay de payer ou de faire réparer son paletot?

R.200 Non, monsieur.

TRANSQUESTIONNE PAR LE PROCUREUR

Q.201 A quelle place avez-vous pris votre boisson?

R.201 Au Normandie, au grill, monsieur.

Q.202 Combien en avez-vous pris?

R.202 J'ai pris sept à huit bouteilles de bière, monsieur.

Q.203 Des grosses ou des petites?

R.203 Des grosses.

Q.204 Vous rappelez-vous d'avoir vu le Cpl Tremblay ce soir-là?

R.204 Oui, monsieur.

Q.205 Vous rappelez-vous d'être allé au restaurant prendre un coke?

R.205 Oui, monsieur.

Q.206 Avez-vous vu le L/Cpl St-Onge?

R.206 Oui, monsieur, il y était.

Q.207 Vous rappelez-vous quand vous êtes sorti?

R.207 Oui, monsieur.

Q.208 Après ça, qu'est-ce qui est arrivé?

R.208 Je me suis enragé et après, je ne me rappelle plus de rien.

Q.209 Pourquoi vous êtes-vous enragé?

R.209 Parce que le Cpl Tremblay avait coupé un téléphone.

Q.210 Où?

R.210 A la "guard room" monsieur.

Q.211 Quand?

R.211 Ca se trouvait le 14 mai, j'ai commencé à travailler au mess. J'avais laissé un message au Pte Godin, c'était ma fille qui devait appeler. Quand le Pte Godin est retourné à la "guard room" c'était le Cpl Tremblay qui parlait, il avait accroché le téléphone.

Q.212 Qui vous dit que c'est le Cpl Tremblay qui a raccroché?

R.212 C'est lui qui était dans la boîte, monsieur.

Q.213 Est-ce que vous êtes sûr que c'est lui?

R.213 C'est ce que le Pte Godin m'a dit, monsieur.

Q.214 Vous ne pensez pas que c'aurait pu être un autre qui aurait pu raccrocher?

R.214 Je ne le sais pas, monsieur.

Q.215 Alors vous vous enragez seulement parce que la personne qui vous appelait n'était plus là?

R.215 Oui, monsieur.

Q.216 Quel âge avez-vous, Beaulieu?

R.216 20 ans, monsieur.

Q.217 Quand vous prenez de la boisson, est-ce que vous êtes toujours comme ça, est-ce que vous oubliez tout?

R.217 Oui, monsieur.

INTERROGE PAR LA COUR

Q.218 Comment se fait-il que vous vous rappeliez avoir rencontré Cpl Tremblay, si vous ne vous rappelez pas le reste?

R.218 Parce que j'avais tout le temps l'affaire du téléphone dans la tête.

D-5

Q.219 Et d'un coup sec, la porte s'est fermée?

R.219 Ca m'arrive comme ça quand je prends de la boisson, j'étais chaud et enragé et j'avais tout le temps ça dans la tete.

Q.220 Où êtes-vous allé en sortant du restaurant St-Jean?

R.220 Au camp, monsieur.

Q.221 Et vous avez discuté avec le Cpl Tremblay?

R.221 Oui, monsieur.

Q.222 Et vous dites que vous ne vous rappelez pas de ce qui est arrivé?

R.222 Je me rappelle quand je lui ai parlé et après ça, je ne m'en rappelle pas.

Q.223 Parce que vous ne voulez pas vous en rappeler?

R.223 J'ai fait serment, monsieur, il ne faut pas l'oublier.

DE L'AVIS DE LA COUR ET DU JUGE-AVOCAT, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P. 83 (B).

LE TEMOIN REPREND SON SIEGE.

Deuxième témoin à décharge

SD-190358, Pte J.C. GODIN? Royal 22e Regt., St-Jean Det., la Cie de Sports, étant dûment assermenté est interrogé par l'officier défenseur:-

Q.224 Voulez-vous vous identifier devant la Cour, nous dire votre numéro de matricule et votre unité?

R.224 SD-190358, Pte Godin, J.C., Royal 22e Regt., St-Jean Det., la Cie de Sports.

Q.225 Est-ce que vous connaissez un soldat du nom de Beaulieu?

R.225 Oui, monsieur.

Q.226 Voulez-vous le désigner devant la Cour?

R.226 Oui, monsieur. Celui qui est assis dans le milieu. (Le témoin pointe l'accusé du doigt).

Q.227 Est-ce que vous avez eu connaissance, au cours du mois de mai d'un appel téléphonique de longue distance ou de l'extérieur adressé au soldat Beaulieu?

R.227 Oui, monsieur. Le 14 mai, je me trouvais sur la garde. A environ 6 heures et demie ou le plus tard sept heures et quart, le téléphone a sonné et c'était pour Beaulieu, c'était une femme qui appelait. Il travaillait au mess des officiers et il m'avait donné un message pour lui dire qu'elle rappelle plus tard. Je suis revenu dans la "guard room" et le Cpl Tremblay était dans la boîte du téléphone.

Q.228 Est-ce que vous pouvez dire qui a coupé la ligne?

R.228 Non, monsieur.

Q.229 CONTRE INTERROGE PAR LE PROCUREUR

Est-ce que vous avez avisé le Cpl Tremblay qu'il y avait un téléphone pour Beaulieu?

R

R.229 Non, monsieur.

INTERROGE PAR LE JUGE AVOCAT

Q.230 Est-ce que le Cpl Tremblay était au courant du téléphone que le Pte Beaulieu avait reçu?

R.230 Je ne peux pas vous dire, je ne sais pas ce qui s'est passé dans l'intervalle où j'ai parti de la "guard room" pour aller au mess.

Q.231 C'est vous qui avez répondu au téléphone, est-ce que vous avez couru pour aller le chercher?

R.231 C'est moi qui a répondu au téléphone.

Q.232 Est-ce qu'il y avait quelqu'un alentour?

R.232 Il y avait un nommé...

Q.233 Le Cpl Tremblay n'était pas aux alentours?

R.233 Il était au téléphone.

Q.234 Dans votre opinion, est-ce que le Cpl Tremblay savait que Pte Beaulieu avait été appelé au téléphone?

R.234 Moi, tout ce que je sais, c'est que la ligne a été coupée, mais je ne sais pas qui par exemple.

INTERROGE PAR LE PRESIDENT

Q.235 Quand vous avez laissé le téléphone pour aller chercher Pte Beaulieu, est-ce qu'il y avait quelqu'un dans la "guard room"?

R.235 Il y avait les deux gars de la garde qui étaient à la barrière.

Q.236 Dans la "guard room" est-ce qu'il y avait quelqu'un?

R.236 Je ne le sais pas, monsieur. Je n'ai pas remarqué.

Q.237 Vous n'avez pas remarqué?

R.237 Le téléphone a sonné, c'était pour Pte Beaulieu. J'ai sorti et j'ai été le chercher.

INTERROGE PAR LE JUGE AVOCAT

Q.238 Cela a pris combien de temps entre le moment où vous avez répondu au téléphone et le temps de revenir pour donner le message.

R.238 Cinq à dix minutes, monsieur.

DE L'AVIS DE LA COUR ET DU JUGE-AVOCAT, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P. 83 (B).

LE TEMOIN SE RETIRE.

L'officier défenseur prononce une plaidoirie de clôture (Voir le document marqué "G" ci-joint)

Le Procureur prononce un réquisitoire (Voir le document marqué "H" ci-joint).

Le Juge-avocat s'adresse à la cour (Voir le document "I" ci-joint).

E

V E R D I C T

L'audience est levée pour délibérer sur le verdict.

La Cour déclare l'accusé SD-103469, Pte Hubert BEAULIEU, RCIC, Royal 22e Regt., St-Jean Det., RCIC,

coupable d'avoir frappé son officier supérieur.

ANNONCE DU VERDICT

L'audience est ouverte et l'accusé est ramené devant la Cour.

Le verdict est lu en séance ouverte et est annoncé comme étant sujet à confirmation.

AJOURNEMENT ET REPRISE D'AUDIENCE

A 1230 heures, le 25 mai 1949, la Cour s'est ajournée jusqu'à 1345 heures, le 25 mai 1949.

Le 25 mai 1949, à 1345 heures, la Cour se rassemble, conformément à l'avis d'ajournement; sont présents les mêmes membres que lors de la suspension des débats.

PROCEDURES PRECEDANT LA SENTENCE

ZD-518, Lieut L.J.L. Lefebvre, RCIC, St-Jean Det., Royal 22e Regt., est dûment assermenté:-

Q.239 Avez-vous quelque preuve à produire quant à la réputation et les états de service de l'accusé?

R.239 Oui, monsieur, la formule MFM 6 et la formule MFB 355.

La déclaration précidée est lue, marquée "Y" "Z" signée par le Président et versée au dossier.

Q.240 L'accusé est-il la personne nommée dans la déclaration dont vous venez d'entendre lecture?

R.240 Oui, monsieur.

Q.241 Avez-vous comparé le contenu de la déclaration précitée avec les livres régimentaires?

R.241 Oui, monsieur.

Q.242 Sont-ce des copies conformes des livres régimentaires et l'exposé des inscriptions figurant aux feuillets de punitions est-il un résumé juste et fidèle de ces inscriptions?

R.242 Oui, monsieur.

L'officier défenseur ne désire pas interroger le témoin.

DE L'AVIS DE LA COUR ET DU JUGE-AVOCAT, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P. 83 (B).

LE TEMOIN REPREND SON SIEGE.

Q.243 Avez-vous quelque chose à dire à la Cour?

R.243 Oui, monsieur, par l'entremise de mon officier défenseur (Voir le document marqué "J")

L'audience est levée pour délibérer sur la sentence.

F

Sentence.

ANNONCE DE LA SENTENCE

Détention
90 jrs.

L'audience étant reprise, l'accusé est ramené devant la Cour.

La Cour condamne l'accusé

SE-103469, Pte Hubert BEAULIEU, RCIC,
Royal 22e Regt., St-Jean Detachment

à quatre-vingt-dix jours de détention.

La sentence est annoncée en séance ouverte; la sentence est annoncé comme étant sujette à confirmation.

Signé ce 25e jour de mai 1949

(G.A.M. NANTEL) Major
Juge-avocat.

(Guy GRENIER) Major,
Président C.M.D.

Confirmed.

Signed at Montreal this 2nd day of June 1949.

(M.L. de ROME) Colonel,
Officer i/c of Administration
HQ Quebec Command, CA (AF)

Promulgated and extracts taken at St Jean Que this 9th day of June 1949

(J L J Lefebvre)Lt
Adjutant
St Jean Detachment
Royal 22e Regiment RCIC

Extracts entered as No. 47929 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 20th day of June 1949

"X"

ORDERS BY Colonel M.L. de ROME, OBE, ED,
Officer i/c Administration, Que. Command, CA (AF)

District Court-Martial
SE-103469, Pte Hubert BEAULIEU, RCIC,
St.Jean Det., Royal 22e Regt., CA (AF)

The detail of officers as mentioned below will assemble at St.Johns' Barracks, St.John, Que., on Wednesday, the 25th. day of May 1949, at 1000 hours, for the purpose of trying by a District Court-Martial the accused person named in the margin (and such other person or persons as may be brought before them).

PRESIDENT

ZD-250, Major Guy Grenier, C Int C,
HQ Quebec Command, CA (AF)

MEMBERS

ZF-1838, Capt. M.J.L. Bru, RCA,
No. 4 Section A & T Staff, CA (AF)

ZD-362, Capt. C.E. Laurencelle, RCIC,
St.Jean Det., Royal 22e Regt., CA (AF)

WAITING MEMBER

ZD-2770, Lieut. J.P.R. Tremblay, RCIC,
St.Jean Det., Royal 22e Regt., CA (AF)

JUDGE-ADVOCATE

ZC-1989, Major G.A.M. Nantel, Gen. List,
AJAG., HQ Quebec Command, CA (AF) is hereby appointed Judge Advocate.

PROSECUTOR

ZD-518, Lieut. J.L.J. Lefebvre, RCIC,
St.Jean Det., Royal 22e Regt., CA (AF) is appointed Prosecutor

DEFENDING OFFICER

ZD-668, Capt. L.E. Clermont, RCIC,
No. 4 Section A & T Staff, CA (AF) is hereby appointed Defending Officer.

UNDER INSTRUCTION: All officers available at St.Johns' Barracks, St. John, Que.

The accused will be warned and all witnesses duly required to attend.

The Officer Commanding Royal 22e Regt., St.Jean Detachment, CA (AF), will arrange for the necessary accommodation, stationery court orderly, escort and interpreters.

The proceedings will be forwarded to the AA & QMG., HQ Quebec Command, CA (AF).

Signed this 21st day of May 1949.

(M.L. de ROME) Colonel,
Officer i/c of Administration,
HQ Quebec Command, CA (AF)

MFB 220

"G" pièce DC 19

PLAIDOIRIE DE CLOTURE DE L'OFFICIER DEFENSEUR

Lorsque l'inculpé a entendu l'acte d'accusation, il a plaidé "non coupable". Le plaidoyer de non culpabilité était surtout dirigé dans ce sens, c'est que l'accusé reconnaissait avoir eu une altercation avec un de ses supérieurs, mais qu'il n'agréait pas sur toute la forme complète de la charge.

Il admet dans son propre témoignage avoir eu une altercation avec son officier supérieur, et il soumet à la Cour le fait qu'il n'était pas sobre au moment du délit. Alors, devant le fardeau des faits, je vous demanderais de considérer l'absence d'intention, de même que le manque de contrôle de l'accusé sous ses propres actions, au moment où le délit a été commis.

Que ce délit-là ait eu une raison antérieure à cette cause, je l'ai relevé d'une façon plus ou moins probante au cours du témoignage du dernier témoin, relativement à un téléphone. Il est regrettable que cette chose ait eu lieu, seulement, la défense voit le seul point, soit une mitigation dans l'acte d'accusation lui-même, c'est-à-dire que le Président de la Cour, de même que la Cour puissent interpréter l'article 56, déclarer l'accusé non coupable d'avoir frappé son supérieur, puisqu'il semble y avoir un élément de doute en sa faveur.

Une mitigation de la charge pourrait rencontrer les circonstances exposées dans cette cause - une altercation par un soldat, à une heure très avancée de la nuit en état d'ébriété très prononcée, alors c'est tout ce qu'on peut exposer sur ce cas-là.

Je soutiens que la charge devrait être réduite et que l'accusé devrait simplement être trouvé coupable de s'être servi de la force ou de la violence contre son officier supérieur.

"H"

REQUISITOIRE DU PROCUREUR

C'est l'opinion de la poursuite qu'elle a prouvé d'une façon décisive que l'accusé s'est rendu coupable d'une charge très grave, celle d'avoir frappé son officier supérieur.

Il est clair, d'après les témoignages entendus, que l'altercation n'était pas en vue de s'amuser. Nous avons premièrement le fait que l'accusé a déchiré l'habit du caporal, les menaces qu'il lui a faites, l'avoir jeté par terre. Ceci prouve qu'il n'y avait pas l'intention de jouer.

Maintenant, le fait que l'accusé soit en état d'ivresse ou qu'il ait pris de la boisson n'excuse pas ses faits et gestes. On dit dans l'article 42 du MML chapitre III, page 24: "Drunkenness will be regarded as having the ordinary meaning attached to it in civil life." Alors l'ivresse dans la vie civile n'excuse pas un accusé. Alors, la même chose s'applique dans l'Armée.

Il est à noter la gravité de l'offense, en ce que Pte Beaulieu a reconnu le Cpl Tremblay - il savait ce qu'il faisait. Il est un soldat assez expérimenté pour connaître la gravité de son offense.

Nous avons trois témoins qui sont venus dire la même chose, que le soldat Beaulieu avait jeté le Cpl Tremblay par terre, le Cpl Tremblay s'était relevé et le Pte Beaulieu l'a frappé.

Alors, avec ces témoignages-là, la Cour ne devrait pas être dans le doute raisonnable quant au motif et à l'action qui s'est passée.

La poursuite prétend que la Cour devrait trouver l'accusé coupable de la charge, tel que mentionné.

"I"

RESUME DES FAITS PAR LE JUGE-AVOCAT

A ce stage de la procédure, il est de mon devoir de vous donner les grandes lignes du droit et de résumer la preuve qui a été amenée devant la Cour. Alors que je ferai le résumé des faits, si par hasard je donnais mon opinion, je prie les membres de la Cour, de n'en pas tenir compte, parce que les membres de la Cour sont les seuls maîtres des faits et si je le fais, ce sera par inadvertance.

Il est un grand principe du droit anglais qui dit qu'un accusé est présumé innocent jusqu'à ce qu'il soit trouvé coupable; il incombe donc à la poursuite de prouver, hors de tout doute raisonnable, l'infraction et d'y rattacher l'accusé. Par conséquent, à moins que la culpabilité de l'accusé ne soit établis au-delà de tout doute raisonnable, l'accusé doit être acquitté, puisque la poursuite n'a pas rempli convenablement la tâche qui lui incombait d'établir la culpabilité.

Les membres doivent aussi se rappeler que si un doute raisonnable repose dans leur esprit, ce doute doit être interprété en faveur de l'accusé.

Le premier témoin entendu fut le Cpl Tremblay, c'est la victime. Il dit que le 16 mai à 0030 heures, il sortait du restaurant St-Jean, lorsque le Pte Beaulieu l'invita à se battre. Ils ont commencé à se tirailler - Pte Beaulieu aurait donné un croc-en-jambe au Cpl Tremblay. Pendant que le Cpl Tremblay se relevait, il affirme que l'accusé lui a donné un coup de poing sur le côté droit du visage. Il est en preuve, d'après le témoignage de ce témoin, que Pte Beaulieu le connait depuis longtemps, comme question de fait, l'a connu au cours de l'été dernier à Valcartier. Il eut de nouveau une autre échange de mots aigre-doux en arrivant au camp, mais ça n'intéresse pas la Cour.

Deuxième témoin - L/Cpl St-Onge qui identifie l'accusé positivement. Corrobore le Cpl Tremblay quant à la date et quant à toutes les circonstances qui ont entouré l'altercation

qui eut lieu près du restaurant St-Jean sur la rue Richelieu, à St-Jean. Corrobore le fait que le Pte Beaulieu, l'accusé, a frappé le Cpl Tremblay de son poing au visage. Lorsqu'il s'est relevé après avoir été jeté par terre et après que l'accusé l'a fait tomber. Alors qu'il était interrogé par la Cour, il a admis que l'accusé connaissait très bien le Cpl Tremblay et que même si celui-ci était en civil, l'avait reconnu.

Le troisième témoin, Pte Charpentier, qui de même a identifié l'accusé et qui raconte les faits qui son sensiblement les mêmes que ceux racontés par le Cpl Tremblay et le L/Cpl St-Onge. Cependant, il est moins catégorique quant au moment où le Cpl Tremblay aurait été frappé. Alors qu'il était examiné par la Cour il dit qu'il a vu l'accusé s'élancer pour frapper avec son poing fermé, mais que le Cpl Tremblay aurait tenté de l'éviter et que le coup de poing n'a pas porté toute la force qu'il aurait porté si le Cpl Tremblay n'avait pu parer le coup. Il dit que l'accusé était en boisson. Cependant, il établit qu'il savait très bien ce qu'il disait et qu'il n'était pas assez ivre pour ne pas savoir ce qui se passait. Il corrobore les autres témoins pour dire qu'il savait très bien que le Cpl Tremblay était un caporal puisqu'ils faisaient partie du même régiment et du même camp.

Le dernier témoin, le soldat Verreault, corrobore en partie le témoignage des autres. Cependant, c'est un témoin qui est réticent, qui ne veut pas admettre le fait. Il se retranche sur le fait qu'il faisait noir et qu'il était à quinze pieds des combattants pour dire qu'il n'a pu voir exactement ce qui s'est passé. Il corrobore les trois autres témoignages concernant l'altercation entre l'accusé et le Cpl Tremblay.

En défense, l'accusé lui-même vient témoigner sous serment que vers 0030 heures après avoir pris de la boisson, il a eu une altercation avec le Cpl Tremblay. Cependant, il ne se souvient de rien après avoir commencé à se chicaner avec le Cpl Tremblay. En contre-interrogatoire, il admet qu'il

avait pris sept ou huit grosses bouteilles de bière durant la soirée, qu'il se souvient avoir vu le Cpl Tremblay au restaurant, d'être allé prendre un coke au restaurant St-Jean. Se souvient d'être sorti, se souvient de s'être chicané avec le Cpl Tremblay, mais que ça finit là, parce qu'il ne peut pas se souvenir de ce qui s'est passé ensuite. Il raconte qu'il était fâché contre le Cpl Tremblay parce qu'il aurait reçu un appel téléphonique du dehors et que la ligne aurait été coupée par le Cpl Tremblay.

La défense a produit le soldat Codin comme deuxième témoin pour corroborer le fait que l'accusé aurait eu un appel téléphonique d'une jeune fille et que pendant qu'il allait chercher l'accusé la communication aurait été coupée et que le Cpl Tremblay aurait été au téléphone. Il n'a pu établir que le Cpl Tremblay était l'auteur de l'arrêt de la communication ou du fait que la ligne aurait étécoupée.

Ce n'est pas une cause compliquée, c'est une cause sous l'article 8 (2) de l'Army Act. Il incombe à la poursuite de prouver qu'à St-Jean, Québec, à environ 0030 heures, le 16 mai 1949 l'accusé présent devant la Cour a frappé dans le visage avec son poing, le Cpl Tremblay attaché au Détachement de St-Jean, du Royal 22e Régiment.

En vertu de l'article 56 de l'Army Act, si la Cour n'est pas satisfaite de la preuve, le soldat qui est accusé d'avoir frappé peut être trouvé coupable de s'être servi ou d'avoir offert de la violence. Ce sont des charges moins rigoureuses et la Cour a le droit, par un verdict spécial, de trouver l'accusé coupable d'une charge moindre, si elle n'est pas satisfaite que la poursuite a prouvé au-delà de tout doute la culpabilité de l'accusé.

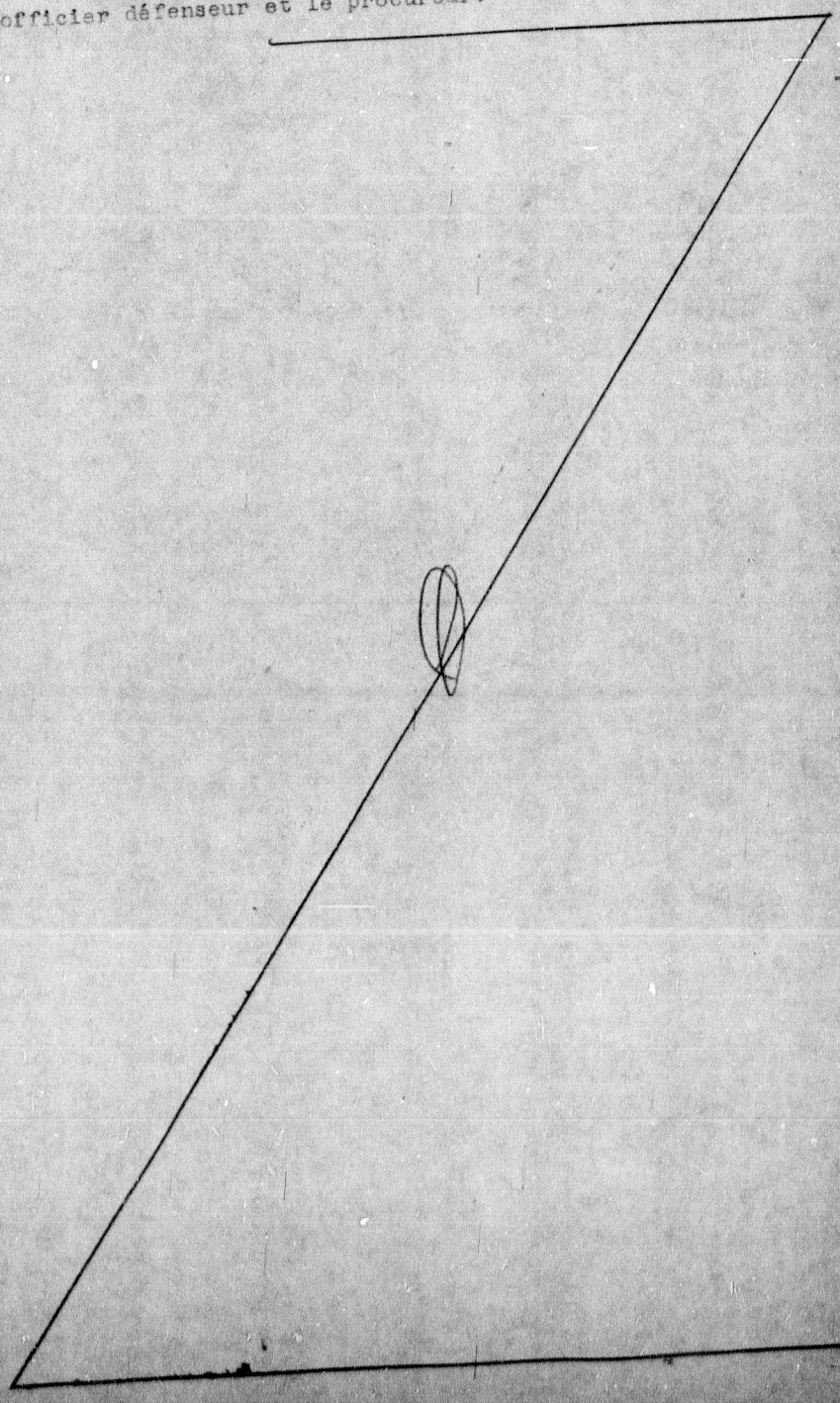
Comme je vous l'ai dit tout à l'heure, le poids de la preuve incombe à la poursuite qui devait prouver hors de tout doute raisonnable que l'accusé a commis l'infraction tel qu'il appert à la charge.

Si les membres de la Cour ont un doute dans l'esprit,

ils doivent en faire bénificier l'accusé.

Il reste à la Cour maintenant de décider si l'accusé est coupable ou non coupable.

Vous allez délibérer seuls, je me retirerai avec l'officier défenseur et le procureur.



"J"

PLAIDOYER DE L'OFFICIER DEFENSEUR
EN MITIGATION DE SENTENCE

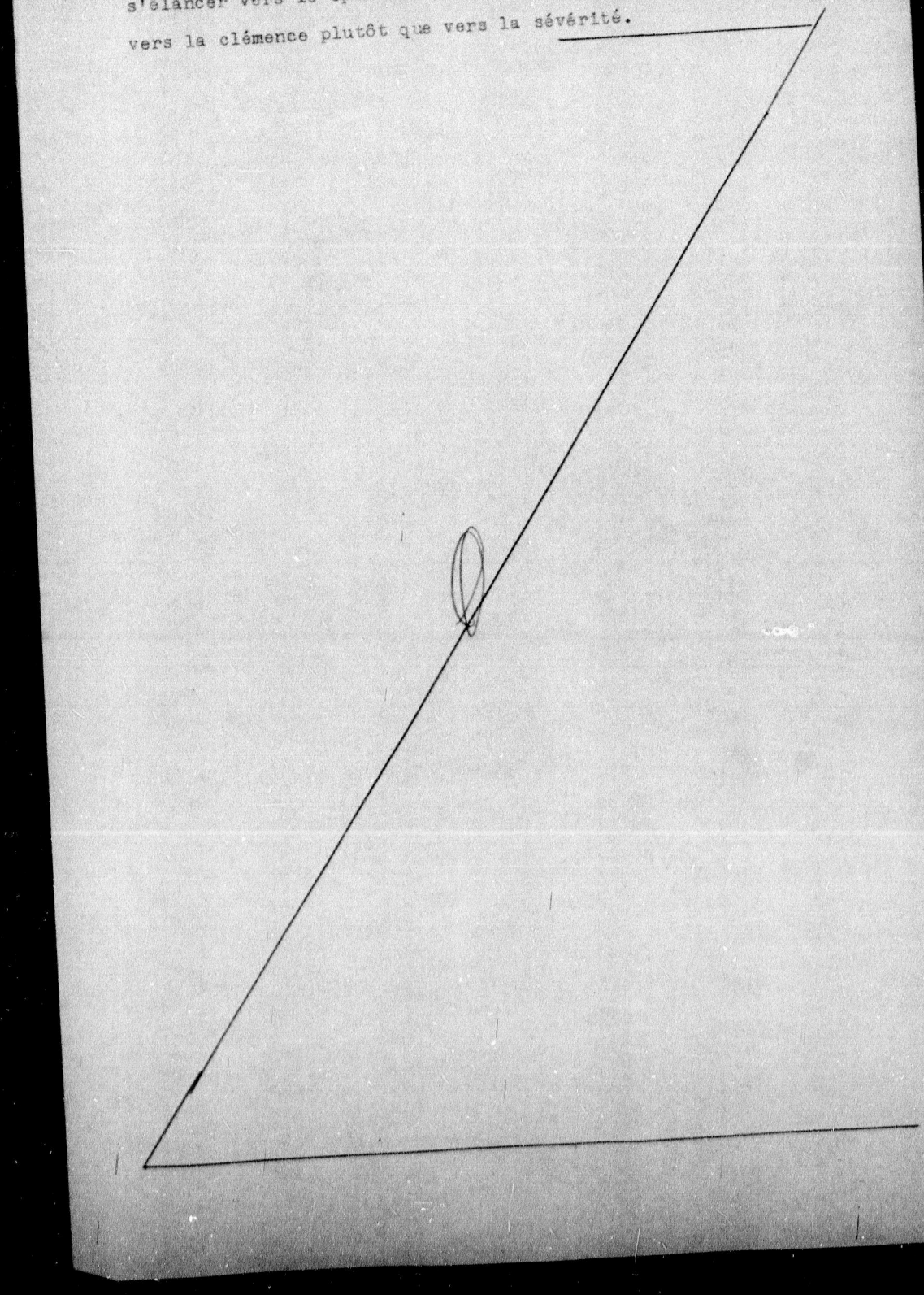
Monsieur le Président,
MM les Membres de la Cour,

Vous avez après avoir étudié les faits présentés ce matin, constaté de la gravité de l'offense. Toutefois, si l'accusé a commis un délit qui demande et justifie un décret, il y a certaines circonstances sur lesquelles j'aimerais attirer votre attention; circonstances qui, sans diminuer l'offense elle-même, du moins pourrait l'atténuer surtout au moment où vous allez considérer la sentence à imposer.

J'admets avec vous qu'il y a très peu d'excuse sur le côté contrôle de ses propres actions par l'accusé. Toutefois, il faut tenir compte que l'accusé était en civil et qu'il était sous l'influence assez prononcée de la boisson. Deuxièmement, l'âge de l'accusé, il a à peine 20 ans et il est dans le service depuis 14 mois. Ses services, tel qu'il réflète sur sa feuille de conduite, sans être d'une excellence de premier ordre, ne compte pas d'offense assez grave. Je me permettrai même d'attirer votre attention qu'aucune offense de ce genre ne figure, soit offense d'insubordination, d'avoir frappé ou offert de la violence à l'égard d'un officier supérieur. En conséquence, et surtout en tenant compte du caractère, probablement trop prompt de l'accusé, de même que sa faiblesse, en prenant plus de liqueur qu'il aurait dû en prendre et troisièmement du fait qu'il semble y exister un certain malentendu dans le passé entre l'attaquant et l'attaqué. Toutefois, si ce malentendu n'a pas été jugé d'une importance telle par vous, d'une importance suffisante pour faire varier votre décision dans sa culpabilité, du moins lorsqu'il s'agit de considérer la sentence, je demanderais d'avoir un peu de considération du fait qu'il n'y a pas de doute que l'accusé a certainement obéi à une impulsion qu'il ne pouvait contrôler parce que son tempérament est violent et deuxièmement son âge. A vingt ans il y a bien des choses qu'on fait auxquelles on ne pense peu et

dont on paye les conséquences très chèrement.

Je vous demanderais donc, après vous avoir exposé les circonstances spéciales qui ont amené le Pte Beaulieu à s'élancer vers le Cpl Tremblay, à ce que la décision tende vers la clémence plutôt que vers la sévérité.



No. SE- 103469 Name BEAULIEU H. Sqn., Battery, or Company — Corps RCIC — Date of enlistment 4 Mar 48 — C.C. Badges — Rates of Pay — Character G.F. Charlebois) Major.

No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
St-Jean Que	16 Feb 49	Pte		A.A. SEC 15 (1) AWL from 0830hrs 16 Feb 49 until 0130 hrs 17 Feb 49 T.A. 17 hrs.	Cpl Plante	4 days C.B.	17 Feb 49	Capt P.E. Labelle	Forf 1 days' Pay P&A (A) 286 (a).
St-Jean Que	21 Feb	Pte		A.A. SEC 19 DRUNKENNESS.	Sgt Cuillerier	Admonished	22 Feb 49	Capt P.E. Labelle	
	PREVIOUS CONDUCT SHEET DESTROYED 4 Mar 49 IN ACCORDANCE WITH K R (CAN) 1519 (3) (a) (ii)								
St-Jean Que	16 Mar 49	Pte		A.A. SEC 15 (1) AWL from 0830 hrs 16 Mar 49 until 19 Mar 49 at 0400 hrs T.A. 2 days 19 hrs 30 mins	Sgt Deslauriers St-Onge	4 Days C.B.	21 Mar	Capt L. Clermont	Forf 3 days' Pay P&A (A) 286 (a)

Certified true Copy

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY (J L J LEFEBVRE)LT ADJUTANT ST JEAN DETACHMENT ROYAL 22e REGIMENT RCIC					

"Z"

[illegible] for DCM

M.F.B. 385
50M—6-45 (7476)
H.Q. 1772-39-632
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
SE103469	PTE	BEAULIEU Hubert ST JEAN	DETACHMENT ROYAL 22e REGIMENT

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

Within last 12 months		Since enlistment or appointment	
For	times	AA SEC 15 (1) AWL two	times
For	times	AA SEC 19 DRUNKENNESS one	times X
For	times		times
For	times		times

[redacted]

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

[redacted]

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

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 10 days in military custody, making a total of 10 days in custody, of which none days were spent in hospital.

5. The present age of the accused according to [redacted] attestation paper is 20 years and 11 months

6. The date of his [redacted] attestation specified in his [redacted] attestation paper is 4 March 48

7. The service which the accused is allowed to reckon towards discharge is 14 months

8. The accused is entitled to reckon 14 months service for the purpose of determining his pension, etc.

9. The accused is [redacted] of or entitled to no [redacted] military decoration, [redacted] military reward [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

12 [redacted] Date of promotion.

[redacted]

[redacted]

[redacted]

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 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, Number SE103469 Rank PTE Unit Regiment

Name BEAULIEU Hubert of ST JEAN DET ROYAL 22e REGIMENT

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

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

Jean [signature]

(H TELLIER)MAJOR
COMMANDING ST JEAN DETACHMENT
ROYAL 22e REGIMENT RCIC

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 25th day of MAY 1949

Jean [signature]
(H TELLIER)MAJOR
COMMANDING ST JEAN DETACHMENT
ROYAL 22e REGIMENT RCIC

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.

Adjutant
St Jean Det R

Pres. Dem

SUMMARY OF EVIDENCE

In the case of

SE-103469 Pte Hubert BEAULIEU, RCIC, St Jean Detachment, Royal 22e Regiment, a soldier of the Canadian Army (Active Force).

CHARGES: 1- USING THREATENING LANGUAGE TO HIS SUPERIOR OFFICER

2- STRIKING HIS SUPERIOR OFFICER

The Commanding Officer has directed that the evidence be taken on Oath.

LIST OF WITNESSES:

SD-126505	Cpl	TREMBLAY	V.
SC-57974	L/Cpl	ST ONGE	E.A.
SD-190672	Pte	CHARPENTIER	J.E.C.
SE-103606	Pte	VERREAULT	J.M.

FIRST WITNESS

SD-126505 Cpl Viateur TREMBLAY, RCIC, Royal 22e Regiment, ayant ete dument assermente, declare:

Je suis, SD-126505 Cpl Viateur Tremblay, RCIC, Royal 22e Regiment, attache au St Jean Detachement, Royal 22e Regiment. Le 16 mai 1949, vers 0030 hres, j'etais en ville a St Jean Que., avec le L/Cpl St Onge, lorsque le Pte Beaulieu, que je reconnais ici comme l'accuse, s'est avance vers moi et m'a invite a me battre pour des raisons que je ne connais pas. Je lui ai dit d'aller se coucher et que c'etait mieux comme cela. Alors il m'a dit:"Je vais te battre et te defaire la face". Je lui ai repete d'aller se coucher. C'est alors qu'il m'a saisi par le revers de mon habit civil, l'a dechire et m'a donne une jambette. Je suis tombe et me suis releve pour lui dire encore d'aller se coucher que c'etait mieux comme cela. Il m'a alors frappe avec son poing sur le cote droit du visage. Je n'ai rien dit et j'ai simplement continuer mon chemin vers le camp. Rendu a la barriere du camp, le soldat Beaulieu m'a encore invite a sortir du camp et a me battre avec lui. Je lui ai dit d'aller se coucher avant que les choses ne deviennent plus graves. Je suis aller me coucher et vers 0845 hres le 16 mai 1949, je lui ai fait les deux charges dont il est accusees.

The accused declines to cross-examine this witness.

Rules of Procedure 83(b) and 125(b) have been complied with.

J.V. Tremblay

SD-126505 Cpl TREMBLAY V.

SECOND WITNESS: SC-57974 L/Cpl Edmond Albert ST ONGE, RCIC, St Jean Detachment, Royal 22e Regiment, ayant ete dument assermente declare:

Je suis, SC-57974 L/Cpl Edmond Albert ST ONGE, RCIC, St Jean Detachement, Royal 22e Regiment. Le 16 Mai 1949, vers 0030 hres, le Caporal TREMBLAY et moi sortions d'un restaurant, a St-Jean, Que., lorsque le Pte BEAULIEU que je reconnais ici comme l'accuse s'est avance vers le Cpl TREMBLAY et lui a dit: "Je vais te battre et te defaire le visage". Le Caporal TREMBLAY lui a dit d'aller se coucher que c'etait mieux pour lui. Le soldat Beaulieu a alors saisi le Caporal Tremblay par le revers de son habit et l'a fait tomber. Le Caporal s'est releve et le Pte Beaulieu l'a frappe avec son poing sur le cote droit du visage. Le Caporal a alors parle au soldat Beaulieu et apres quelques minutes Beaulieu est parti. Rendu au camp j'ai fait mon rapport a cet effet au Sergent du Jour qui m'a alors dit d'attendre au lendemain.

The accused declines to cross-examine this witness.

Rules of Procedure 83(b) and 125(b) have been complied with.

L/Cpl St Onge E.A.
SC-57974 L/Cpl ST ONGE E.A.

THIRD WITNESS: SD-190672 Pte Joseph Edouard Guy CHARPENTIER, RCIC, St Jean Detachement, Royal 22e Regiment, ayant ete dument assermente declare:

Je suis, SD-190672 Pte Joseph Edouard Guy CHARPENTIER, RCIC, St Jean Detachement, Royal 22e Regiment. Le 16 mai 1949, vers 0005 hres, en arrivant de Montreal sur l'autobus, je suis alle au restaurant ou j'ai rencontre le Pte BEAULIEU que je reconnais ici comme l'accuse. Nous avons pris un coke et fume une cigarette puis le soldat BEAULIEU s'est leve et est alle parler au Sgt FARLEY et est alle aux toilettes. Le L/Cpl ST ONGE a alors dit a Beaulie u bonsoir mais celui-ci n'a pas repondu. BEAULIEU est venu pour s'en aller mais le L/Cpl ST ONGE l'a retenu par le bras. Alors BEAULIEU est venu me retrouver et m'a demande si je voulais m'en aller. Nous sommes sortis du restaurant et il m'a alors dit qu'il en voulait au L/Cpl ST ONGE parce que ce dernier avait coupe la cravate du soldat DUBE. Il s'est alors fache, m'a remis son coat et est parti apres le Cpl TREMBLAY, le L/Cpl ST ONGE et le Pte VERREAULT. Ils les a arretes et le Cpl TREMBLAY lui a dit d'aller se coucher. Il a alors saisi le Cpl TREMBLAY par son coat qu'il a dechire, lui a donne un jambette et le Caporal a roule par terre. Le Caporal TREMBLAY s'est releve et BEAULIEU l'a frappe; ensuite BEAULIEU leur a dit d'avancer tous les trois. Personne n'a avance, alors il leur a parle puis il a repris son coat. Rendu au Parc, il a recommence et voulait attaquer le Caporal TREMBLAY de nouveau. Le Caporal TREMBLAY lui a alors parler et lui a dit de rester tranquille. BEAULIEU a alors parti apres le L/Cpl ST ONGE mais celui-ci courrait trop vite et il ne l'a pas rejoint. Nous sommes alors revenus au Camp.

The accused declines to cross-examine this witness.

Rules of procedure 83(b) and 125(b) have been complied with.

Jos. Charpentier
SD-190672 Pte CHARPENTIER J.E.

FOURTH WITNESS: SE-103606 Pte Jean Marie VERREAULT, RCIC, St Jean Detachement, Royal 22e Regiment, ayant ete dument assermente declare:

Je suis, SE-103606 Pte Jean Marie VERREAULT, RCIC, St Jean Detachement, Royal 22e Regiment. Le 16 mai 1949, vers 0030 hres, j'etais avec le Cpl TREMBLAY et le L/Cpl ST ONGE a St Jean Que.. J'ai vu le soldat BEAULIEU que je reconnais ici comme l'accuse, s'approcher du Cpl TREMBLAY et se chamailler avec lui. Le Caporal s'est alors retourne vers le L/Cpl ST ONGE et moi et nous a dit: "IL a dechire mon coat". Alors nous sommes revenus aux casernes.

The accused declines to cross-examine this witness.

Rules of Procedure 83(b) and 125(b) have been complied with.

SE103606 Verreault J.M.
SE-103606 Pte VERREAULT J.M.

QUESTION A L'ACCUSE

"Desirez-vous faire une declaration ou rendre temoignage sous serment, vous n'etes pas oblige de dire quoi que ce soit ni de rendre temoignage; mais tout ce que vous direz ou toute deposition que vous ferez sera pris par ecrit et pourra servir de preuve?

REPONSE DE L'ACCUSE

"Je n'ai rien a dire, Monsieur".

Je certifie que les regles de procedure (4(c), (d), (e), (f), ont ete suivies.

Pris devant moi, en presence de l'accuse aux Casernes de St Jean, St-Jean, Que., ce 17ieme jour de Mai 1949.

.....

ZD-518 Lt J.L.J. LEFEBVRE

SE-103469 Pte Hubert BEAULIEU,

Desirez-vous que l'Officier Convocateur designe un officier charge de vous representer au proces, dans le cas ou un officier competent serait disponible?

"Oui, Monsieur, j'aimerais a ce que le Capitaine L.E. CLERMONT me represente."

.....Pte Beaulieu H.
SE-103469 Pte BEAULIEU H.

Rules of Procedure 14(b) has been complied with.

LIST OF OFFICERS AVAILABLE

ZD-362	Capt	C.E.	LAURENCELLE	✓
ZD-2150	Lt	J.A.C.	DEXTRAS	
ZD-2770	Lt	J.P.R.	TREMBLAY	✓
ZD-2265	Lt	L.R.	DRAPEAU	(DCM)

PROSECUTING OFFICER

ZD-518	Lt	J.L.J.	LEFEBVRE	✓

H.Q.C. 55-B-3590 **CONFIDENTIAL**

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT DISTRICT COURT-MARTIAL

BIRMINGHAM, ROBERT REGINALD SM.9160 TPR.

CONFIDENTIAL
H.Q.C. 55-B-3590

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
				JAG	NEW FILE CR JUL 4 - 1949		
JUL 20 1949	19 7/49	DA	KMcS	DAdmin B	Jo note & PA	[illegible]	18 7/49

NOTICE

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2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

H.Q. C.55-B-3590
M.D.

MEMORANDUM - DISTRICT COURT-MARTIAL

No. SM 9160 Name BIRMINGHAM, Robert Reginald

Rank Tpr. Unit 2nd Armd Regt LdSH(RC)

Charge AA 15(1) - Absenting Himself Without Leave - absent from 0700 hrs 7 May 49 to 1100 hrs 26 May 1949 (Apprehended). Cost of Appreh: $15.00



Date of Crime 7 May 1949

Date of Arrest 26 May 1949 Charge Signed 3 June 1949

Orders for D.C.M. 10 June 1949

Place and Date of Trial Currie Barracks, Calgary, Alberta, 13 June 1949

Sentence Sixty Days Detention; Stoppages $15.00

Date of Confirmation 22 June 1949

Date of Promulgation 27 June 1949

Entered in Records of J.A.G. as No. 47088

Date 11 July 1949

MEMO Accused found Guilty of Charge; 15 Days Detention Remitted on confirmation.

Received, 19 Jul 49

W.M.W. Shaw
for Judge Advocate-General

CONFIDENTIAL HQC 55-B-3690 (JAG/O)

THE OFFICE OF THE ~~XXXXXX~~ JUDGE ADVOCATE GENERAL

July 11, 1949.

Headquarters,
Western Command,
Kingsway Avenue,
EDMONTON, Alta.

District Court-Martial
SM 9160 Tpr BIRMINGHAM, RR

Receipt is acknowledged of your WC/SM 9160 (A) dated 30 Jun 49, enclosing proceedings of the m/n District Court-Martial.

2. These proceedings were entered in our records as No. 47083 on 11 July, 1949.

WMWS/ML

(W.M.W. Shaw) Lt.-Col.
for Judge Advocate General.

IN REPLY PLEASE QUOTE No. WC/SM9160 (A)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

HQ Western Command
Kingsway Avenue
Edmonton, Alberta
30 Jun 49

JUL 4 1949

Army Headquarters
OTTAWA, Ontario

DISTRICT COURT-MARTIAL
SM 9160 Tpr BIRMINGHAM, RR

1 Herewith Proceedings of the marginally noted District Court-Martial held at Calgary on 13 Jun 49.

2 Proceedings have been reviewed in accordance with CAO 62-3 and it is not considered that any further administrative action is required in this case.

(M H S PENHALE) Maj Gen
General Officer Commanding
Western Command

Encl

NAT. DEF. B. 440

MEDICAL OFFICER'S REPORT

I certify that No. SM 9160, Tpr. BIRMINGHAM, R.R.

of Currie Barracks is in a good state of health,

and fit to undergo Trial by Court martial.

Medical Officer

Station Currie Barracks

Date 13 June 1949

M. F. B. 246

50M—9-44 (5437)
H Q. 1772-39-480

President DCM

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

A

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

Proceedings of a District Court-Martial held at Currie Barracks, Calgary, Alberta, on the 13th day of June, 19 49, by order of COLONEL E. C. BROWN, OBE, ED, Officer in Charge of Administration, Western Command,

dated the 11th day of June, 19 49.

President.

ZA.1161 Major H. A. Snelgrove, RCIC,
Princess Patricia's Canadian Light Infantry

Members.

ZH.318 Captain G. W. Garnett, RC Sigs,
Lord Strathcona's Horse (Royal Canadians)
(2nd Armoured Regiment) RCAC

ZG.2951 Captain J. S. Roxborough, RCAC,
Lord Strathcona's Horse (Royal Canadians)
(2nd Armoured Regiment) RCAC

19850 Squadron Leader G. W. Brown, MBE, North West Air Command Headquarters, Edmonton, Alberta ,Judge Advocate.

Trial of* No. SM.9160 Trooper Robert Reginald BIRMINGHAM, Lord Strathcona's Horse (Royal Canadians) (2nd Armoured Regiment) RCAC

The order convening the Court, the charge-sheet and the summary 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† TM.12432 Captain J.V.P. Chatwin, RCAC, 19th Alberta Armoured Car Regiment (called out under CAO 256-1)

~~Counsel~~ for defending officer† ZB.3130 Lieutenant P. M. Burger, RCAC, Lord Strathcona's Horse (Royal Canadians) (2nd Armoured Regiment) RCAC

At 1030 o'clock the Trial commences.

The order convening the Court is read, and is marked " X " 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.

Q. 1 *Question by the President to the accused.* Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

A. 1 *Answer by accused.* No, sir.

(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.

Mil. Form B. 271
15M—9-41 (1762)
H.Q. 1772-39-224

B

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

The following officers under instruction are duly sworn. (See attached document marked "

Q. 2 Do you object to 23162 F/S E.H. Kurtz of North West Air Command Headquarters, Edmonton, Alberta, acting as shorthand writer?

A. 2 No, sir.

- - - 23162 F/S E. H. Kurtz is duly sworn as shorthand writer.

(FOR MINUTE OF ADJOURNMENT AND REASSEMBLY SEE ATTACHED DOCUMENT MARKED " H ")

Charge-Sheet

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

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

Q. 3 No. SM 9160 Trooper Ronald Reginald BIRMINGHAM, Lord Strathcona's Horse (Royal Canadians) (2nd Armoured Regiment) RCAC. Is that your correct number, rank, name and unit?

A. 3 No, sir. My name is Robert Reginald BIRMINGHAM.

The Court, being satisfied the description of the accused is Robert Reginald Birmingham and not as set out in the charge sheet, amend the charge sheet accordingly.

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

Q. 4 Are you guilty or not guilty of the ~~[first]~~ charge against you, which you have heard read? *Question to the accused.*

A. 4 Guilty, sir. *Answer.*

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

~~Answer.~~

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

~~Answer.~~

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

~~Answer.~~

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 Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge *Instruction.*

"B 2"

CHARGE SHEET

The accused, Number SM 9160 Trooper ~~Ronald~~ ROBERT Reginald BIRMINGHAM, Lord Strathcona's Horse (Royal Canadians) (2 Armoured Regiment) RCAC, a soldier of the Canadian Army (Active Force) is charged with:

FIRST CHARGE
Sec. 15 (1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Currie Barracks, CALGARY, Alberta, at 0700 hrs. 7 MAY 1949, absented himself without leave until apprehended at SASKATOON, Saskatchewan, by Constable P.G. MC LELLAN, RCMP, at 1100 hrs. 26 MAY 1949, dressed in Military Uniform.

Cost of apprehension and return to his Corps being $15.00.

A G Chubb

(A.G. Chubb) Lieut-Colonel
Commanding
Lord Strathcona's Horse (Royal Canadians)
(2 Armoured Regiment) RCAC

3rd JUNE, 1949
Currie Barracks,
CALGARY, Alberta.

TO BE TRIED BY DISTRICT COURT-MARTIAL

E C Brown

(E. C. Brown) Colonel
Officer IC Administration
Western Command

EDMONTON, Alberta,
10 June, 1949.

A Bridgman Maj
President DCM

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded 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 **No. SM 9160 Trooper Robert Reginald BIRMINGHAM, Lord Strathcona's Horse (Royal Canadians) (2nd Armoured Regiment) RCAC** is found guilty of **the charge.**

*The summary ~~(or abstract)~~ of evidence is read, marked **" I "**, signed by the President, and attached to the proceedings.

Q. 5 *Question to the accused.* Do you wish to make any statement in mitigation of punishment?

A. 5 *Answer.* ~~The accused in mitigation of punishment says:~~ **No, sir. My Defending Officer will speak for me later on, sir.**

[*or* 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.

DD

Q. 6 Do you wish to give evidence yourself or to call any witnesses as to character? *Question to the accused.*

A. 6 No, sir. *Answer.*

Evidence as to character.

E

~~Finding*~~

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

The Court is closed for the consideration of the finding.

The Court find that the accused

Proceedings on Conviction *before Sentence*

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

~~*The Court being reopened, the accused is again brought before it.~~

No. TR.12432 Captain J.V.P. Chatwin, RCAC, 19th Alberta Armoured Car Regiment, attached to Lord Strathcona's Horse (Royal Canadians) (2nd Armoured Regiment), sworn.

Evidence of character, etc.

Q. 7 *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.* Yes, I have form MFB 365, Statement as to Character and Particulars of Service of Accused.

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

Q. 8 *Question by the President.* Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* He is, sir.

Q. 9 *Question.* Have you compared the contents of the above statement with the regimental books? *Answer.* I have, sir.

Q. 10 *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?

A. 10 *Answer.* They are, sir.

~~Cross-examined by the Defending Officer (accused).~~ (Counsel for the accused).

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE

- - - In the opinion of the Court and the Judge-Advocate it is not necessary to comply with R.P. 83(B).

- - - THE WITNESS RESUMES HIS SEAT.

[Instruction.—If by reason of the nature of the service of the accused in a ~~[illegible]~~ mental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Q. 11 *Question to the accused.* Do you wish to address the Court?

A. 11 *Answer.* My Defending Officer will speak for me. (See attached document marked "J" EX (B))

The Court is closed for the consideration of the sentence.

The Court is reopened and the accused is again brought before it.

The sentence is announced in open Court; the sentence is announced being subject to confirmation.

F

Sentence

The Court sentence the accused No. SM 9160 Trooper Robert Reginald BIRMINGHAM, Lord Strathcona's Horse (Royal Canadians) (2nd Armoured Regiment) RCAC, to undergo detention for 60 days and to be put under stoppages of pay until he has made good the sum of $15.00 in respect of the cost of apprehension and return to his Unit.

Sentence.
Detention
60 days
Stoppages
$15.00

Signed at Calgary, Alberta, this 13th day of June, 1949.

(H. A. Snelgrove) Major
PRESIDENT

(G. W. Brown) Squadron Leader
JUDGE-ADVOCATE

CONFIRMATION

I confirm the finding and sentence of the Court, but remit 15 days detention

Signed at Edmonton, Alberta, this 22nd day of June, 1949.

(E. C. Brown) Colonel
Officer IC Administration
Western Command

"Promulgated and extracts taken this 27th day of June 1949"

(A D Raisbeck) Captain & Adjutant
Officer i/c Records
Lord Strathcona's Horse (Royal Canadians)
(2 Armoured Regiment) RCAC.

Extracts entered as No. 47088 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 11th day of July 1949

ORDERS BY COLONEL ~~T.~~ E. C. BROWN, OBE ED
Officer in Charge of Administration, Western Command

EDMONTON, Alberta,
11th June, 1949.

DISTRICT COURT-MARTIAL ROBERT "X"
SM.9160 Trooper ~~Ronald~~ Reginald BIRMINGHAM
Lord Strathcona's Horse (Royal Canadians)
(2nd Armoured Regiment) RCAC

1. The detail of Officers as mentioned below will assemble at Currie Barracks, Calgary, Alberta, on Monday, 13th day of June, 1949, at 1000 hours for the purpose of trying by a District Court-Martial the accused person named in the margin (and such other person or persons as may be brought before them.)

PRESIDENT

ZA.1161 Major H. A. SNELGROVE, RCIC,
Princess Patricia's Canadian Light Infantry
is appointed President

MEMBERS

ZH.318 Captain G. W. GARNETT, RC Sigs,
Lord Strathcona's Horse (Royal Canadians)
(2nd Armoured Regiment) RCAC

ZG.2951 Captain J. S. ROXBOROUGH, RCAC,
Lord Strathcona's Horse (Royal Canadians)
(2nd Armoured Regiment) RCAC

WAITING MEMBER

ZP.1581 Lieutenant J. W. D. LEWIS, RCIC,
Princess Patricia's Canadian Light Infantry

JUDGE ADVOCATE

19850 Squadron Leader G. W. BROWN, MBE, North West
Air Command Headquarters, Edmonton, Alberta,
is hereby appointed Judge Advocate

PROSECUTOR

TM.12432 Captain J. V. P. CHATWIN, RCAC,
19th Alberta Armoured Car Regiment (called
out under CAO 256-1) is appointed Prosecutor

DEFENDING OFFICER

ZB.3130 Lieutenant P. M. BURGER, RCAC
Lord Strathcona's Horse (Royal Canadians)
(2nd Armoured Regiment) RCAC is appointed
Defending Officer.

2. The accused will be warned and all witnesses duly required to attend.

3. The Commanding Officer, Lord Strathcona's Horse (Royal Canadians) (2nd Armoured Regiment) RCAC, will arrange for the necessary accommodation, stationery, court orderly and escort.

4. The Proceedings will be forwarded to the Officer IC Administration, Western Command.

(E. C. Brown) Colonel
Officer IC Administration
Western Command

" G "

OFFICERS UNDER INSTRUCTION

2/Lt	J.	Bell	Att LdSH (RC) (2nd Armd Regt)
2/Lt	T.L.	Calder	Att LdSH (RC) (2nd Armd Regt)
2/Lt	D.L.	Gold	Att LdSH (RC) (2nd Armd Regt)
2/Lt	G.C.	Murray	Att LdSH (RC) (2nd Armd Regt)
2/Lt	D.A.	Nicholson	Att LdSH (RC) (2nd Armd Regt)
2/Lt	G.T.	Robertson	Att LdSH (RC) (2nd Armd Regt)
2/Lt	W.M.	Rosenburgh	Att LdSH (RC) (2nd Armd Regt)
2/Lt	W.J.A.	Toole	Att LdSH (RC) (2nd Armd Regt)
2/Lt	B.	Volkers	Att LdSH (RC) (2nd Armd Regt)

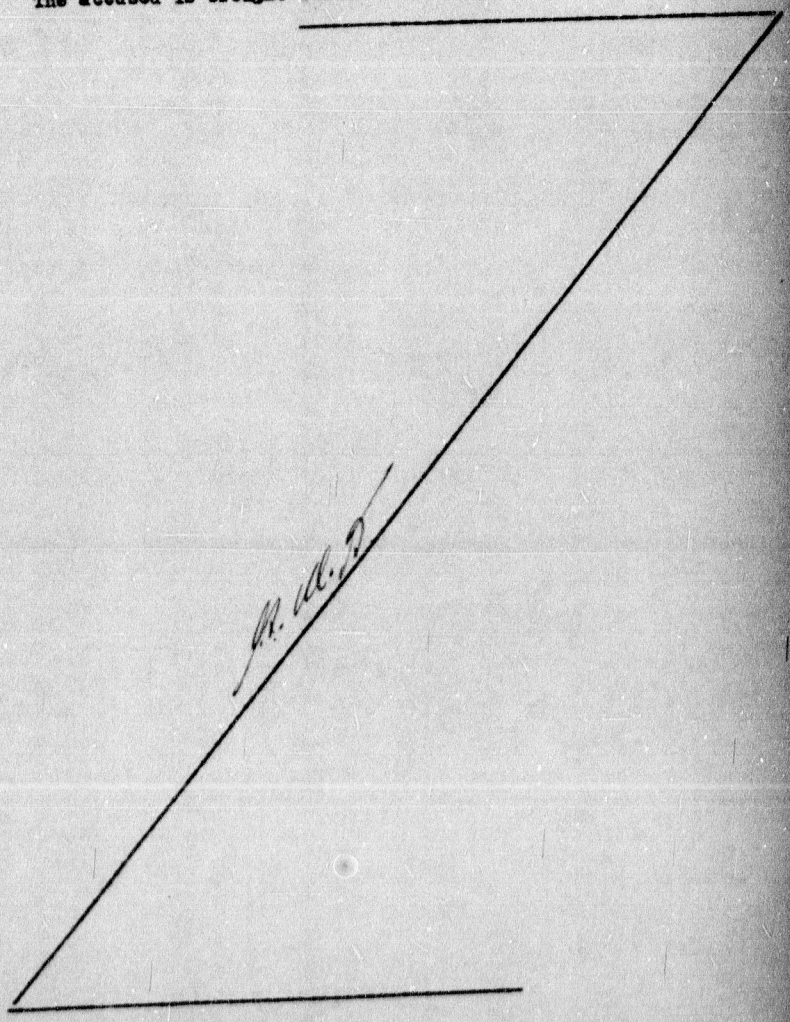
" H "

MINUTE OF ADJOURNMENT AND REASSEMBLY

At 1040 hours, 13th June, 1949, the trial of No. SM 9160 Trooper Robert Reginald Birmingham is adjourned until 1330 hours the same day.

On the 13th June, 1949, at 1330 hours, the Court reassemble pursuant to adjournment, present the same members as when adjourned.

The accused is brought before the Court.



"I"

H Bridgeman V
President DCM

SUMMARY OF EVIDENCE

in the case of

No. SM 9160, Tpr. Robert Reginald BIRMINGHAM, Lord Strathcona's Horse (Royal Canadians) (2nd Armoured Regiment) RCAC, a soldier of the Canadian Army (Active Force)

CHARGE: -

1. ABSENTING HIMSELF WITHOUT LEAVE

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

FIRST WITNESS

SL 104433 Cpl PAINTER, J.C. Lord Strathcona's Horse (Royal Canadians) (2nd Armoured Regiment) RCAC having been duly sworn, states:

I am, SL 104433 Cpl PAINTER, J.C. , Lord Strathcona's Horse(Royal Canadians)(2nd Armoured Regiment)RCAC. I am Troop Cpl of First Troop "B" Squadron. At approximately 0700 hours on the 7th day of MAY, I woke up the troop and found Tpr Birmingham, R.R. absent. I reported his absence to the A/SSM Sgt Findlay, J.R. "B" Squadron.

The accused declined to cross-examine.

Jc Painter Cpl

(J.C. Painter)Cpl SL 104433
Lord Strathcona's Horse (Royal Canadians)

SECOND WITNESS

SM 6807 L/Cpl HEINRICH, W.W., Lord Strathcona's Horse (Royal Canadians) (2nd Armoured Regiment)RCAC having been duly sworn, states:

I am, SM 6807 L/Cpl HEINRICH, W.W., Lord Strathcona's Horse (Royal Canadians)(2nd Armoured Regiment)RCAC. On the morning of the 7th day of MAY 1949, I was "B" Sqn Orderly Corporal and signed the absentee report which shows Tpr Birmingham, R.R. to be absent from 0700 hrs that morning, and I have not seen the accused since that time until he was returned, under escort, on the 29th of MAY 49.

The accused declined to cross-examine.

W W Heinrich

(W.W. Heinrich)L/Cpl SM 6807
Lord Strathcona's Horse (Royal Canadians)

THIRD WITNESS

ZP 1693 Capt A.D. RAISBECK, Lord Strathcona's Horse (Royal Canadians) (2nd Armoured Regiment)RCAC having been duly sworn states:

I am, ZP 1693 Capt A.D. RAISBECK, Adjutant, Lord Strathcona's Horse (Royal Canadians)RCAC, I now produce the following documents.

Certificate of Apprehension, MFM 215 marked Appendix "A"

Part 11 Order No. 55 dated 9 MAY 49, showing first day of absence, marked Appendix "B"

Part 11 Order No. 59 dated 16 MAY 49, showing eighth day of absence, marked Appendix "C"

Part 11 Order No. 66 dated 30 MAY 49, showing return from absence, and cost of apprehension, marked Appendix "D".

I recognize the accused as the person referred to in these documents.

The accused declined to cross-examine the witness.

(A D Raisbeck)Captain & Adjutant
Lord Strathcona's Horse(Royal Canadians)

QUESTION TO THE ACCUSED: "Do you wish to make any statement or 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."

ANSWER BY THE ACCUSED: "I have nothing to say at this time, Sir."

J.R. Birmingham
SM 9160 Tpr BIRMINGHAM R.R.
Lord Strathcona's Horse (RC)

I certify the foregoing Summary consisting of 2 pages was taken down by me in the presence of the accused at Calgary, Alberta, this 1st day of JUNE, 1949, and that Rules of Procedure 4 (C)(D)(E) and (F) have been complied with.

J.V.P. Chatwin Capt
.....
(J.V.P. CHATWIN) Capt
Lord Strathcona's Horse (RC)
(2nd Armoured Regiment)

Officer detailed to take this Summary of Evidence

APPENDIX "A"

CERTIFI~~CATE IN ACCORDANCE WITH ORDER IN COUNCIL P.C. 2757 DATED APRIL 10th, 1942, AS PUBLISHED IN GENERAL ORDER No. 127, 1942.~~

(Apprehension by or Surrender to Civil Authorities)

I CERTIFY that the person whose description is given below was arrested by ~~(surrendered to)~~

Strike out words not applicable

Constable, P.G. McLellan
(Name of Peace Officer or Constable)

at Saskatoon, Sask. (Place) at 11.00 (Hour)

on the 26th day of May 19[illegible]

Strike out words not applicable

and at the time of arrest (surrender) he was wearing military [redacted]) uniform [redacted]).

Regimental particulars of officer or soldier referred to above.

No. [illegible] 9160
Rank Tpr.
Name BIRMINGHAM, R.R.
Unit LdSH (RC) Calgary, Alta.

Description

Age 19
Height 5' 9½"
Complexion Dark.
Hair Black.
Eyes Brown.
Marks Web finger (burn) right hand.

Signature of peace officer or constable by whom arrest, or to whom surrender, was made, or of officer in charge of police station at which officer or soldier was taken into custody upon such arrest or surrender.

I.C. Shank
(I.C.Shank) #12516, A/Sgt.
[redacted] (or Officer in Charge of Police Station)

Strike out words not applicable

M.F.M. 215
75M—12-43 (3178)
H.Q. 1772-39-1935

LORD STRATHCONA'S HORSE (ROYAL CANADIANS)(2 ARMOURED REGIMENT)RCAC

Last Part II "O" No. 54

DATED: 7 MAY 1949.

PUBLISHED BY
LIEUT-COLONEL A.G. CHUBB, DSO
OFFICER COMMANDING

This Order No. 55

DATED: 9 MAY 1949

PLACE: CALGARY, ALBERTA.

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APPENDIX "B"

"A" OFFICERS

1. NEXT OF KIN - Verification of

(a) Mrs. Jean Harrington HAWES (Mother) 1301 Comox St., VANCOUVER, B.C.	ZP 1652	CAPT	H.	HAWES	RCAC	9 MAY 49

"B" OTHER RANKS

2. ATTACHMENTS

(a) Att for R&C from No. 13 Coy RCEME	SK 54701	CFN	WILSON	D.G.	RCEME	6 MAY 49

3. ABSENT WITHOUT LEAVE

(a) AWL from 0700 hrs "	SM 9160	TPR	BIRMINGHAM	R.R.	RCAC	7 MAY 49

4. HOSPITAL

(a) Admitted to Calgary Mil Hosp(Sick)	SH 20274	TPR	FIELD	H.G.	RCAC	9 MAY 49
(b) Discharged from Calgary Mil Hosp	SM 6896	TPR	CAMPONI	L.J.	RCAC	7 MAY 49

5. PUNISHMENTS

(a) Awarded 10 dys Det'n for an offence under Sec 40 AA. An Act to the prejudice of Good Order & Military Discipline (a) Forf 10 dys pay under Para 286(c)(ii) P&A (Army)	SH 61233	TPR	MOREFIELD	E.R.	RCAC	9 MAY 49

"Certified True Copy"
(A D Raisbeck) Capt & Adjt
Lord Strathcona's Horse (RC)

6. BIRTHS MARRIAGES & DEATHS

(a) Laughter: Katherine Louise WILLIAMS born at CALGARY, Alta.	SK 7953	CPL	WILLIAMS	J.E.A.	RCAC	19 APR 49

7. MONTHLY ALLOWANCES

(a) Ceases to draw Separated Family Allce of $39.00 p/m	SD 106810	TPR	PORLIER	F.M.	RCAC	30 APR 49
(b) Ceases to draw Subsistence Allce of $54.00 p/m	SH 9980	TPR	RITCHOT	T.J.	RCAC	9 MAY 49

8. STRENGTH DECREASE

(a) SOS to Cdn Army Training School, St Jean, Quebec. (Auth: HQ 130-19-2(Pers Misc)d/20 Apr 49)	SD 106810	TPR	PORLIER	F.M.	RCAC	9 MAY 49
	SH 9980	TPR	RITCHOT	T.J.	RCAC	9 MAY 49
(b) SOS to RCAC School (Auth: Pers 5024 RCAC d/30 Apr 49)	SH 30565	TPR	STEFANIUK	M.E.	RCAC	9 MAY 49

"G" MISCELLANEOUS

COTC

(a) TOS from University of Alberta Contingent COTC. Departed ROSETOWN Sask 1053 hrs 6 May 49 Reported for duty 1315 hrs 7 May 49 (Auth: HQ 18-1-2-4(Org 2B1) d/15 Mar 49)	M 584078	OFFR CADET	W.J.A.	TOOLE	COTC	1 MAY 49
(b) TOS from University of Toronto Contingent COTC. Despatched CAMPBELLFORD Ont. 0611 hrs 4 May 49. Reported for duty 0820 hrs 7 May 49. (Auth: HQ 18-1-2-4(Org 2B1)d/15 Mar 49)		OFFR CADET	J.	BELL	COTC	4 MAY 49

(c) TOS from University of British Columbia Contingent COTC
Departed Vancouver B.C. 1945 hrs 5 May 49
Reported for duty 1200 hrs 7 May 49
(Auth: HQ. 18-1-2-4(Org 2 B1) d/15 Mar 49)

K 579606	OFFR CADET	G.V.C.	DAUM	COTC	6 MAY 49
K 579607	OFFR CADET	T.L.	CALLER	COTC	6 MAY 49
K 579608	OFFR CADET	J.W.	ELLIOTT	COTC	6 MAY 49
K 579614	OFFR CADET	D.A.	NICHOLSON	COTC	6 MAY 49

(d) TOS from University of Saskatchewan Contingent COTC
Departed from ROSETOWN Sask 1953 hrs 6 May 49
Reported for duty 0820 hrs 7 May 49
(Auth: HQ. 18-1-2-4(Org 2B1)d/15 Mar 49)

	OFFR CADET	R.P.	MULLEN	COTC	6 MAY 49

(e) Granted leave of Absence without Pay from

M 584078	OFFR CADET	W.J.A.	TOOLE	COTC	1 MAY 49

(d) Returned from Leave of Absence without Pay

M 584078	OFFR CADET	W.J.A.	TOOLE	COTC	6 MAY 49

(A.D. Raisbeck) Captain & Adjutant
Lord Strathcona's Horse (Royal Canadians)
(2 Armoured Regiment) RCAC.

"Certified True Copy"
(A D Raisbeck) Capt & Adjt
Lord Strathcona's Horse (RC)

LORD STRATHCONA'S HORSE (ROYAL CANADIANS)(2 ARMOURED REGIMENT) RCAC

Last Part II "O" No. 58 — This Order No. 59

DATED: 13 MAY 1949. — PUBLISHED BY LIEUT-COLONEL A.G. CHUBB, DSO OFFICER COMMANDING — DATED: 16 MAY 1949

PLACE: CALGARY, ALBERTA

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APPENDIX "C"

"A" OFFICERS - NIL

"B" OTHER RANKS

1. ATTACHMENTS

(a) Att FAP to Headquarters West Comd (Auth: WC Message A5143 d/10 May 49)	SA 125645	TPR	ATTWATER	E.G.	RCAC	16 MAY 49
	SK 14207	TPR	JACKSON	R.M.	RCAC	16 MAY 49
	SK 2265	CPL	SEARLE	J.P.	RCAC	16 MAY 49
(b) Att for R&Q from No. 13 Coy RCEME	SM 9202	CFN	ROBILLARD	A.F.	RCEME	16 MAY 49
(c) Ceases Att for R&Q from No. 13 Coy RCEME	SK 54701	CFN	WILSON	D.G.	RCEME	10 MAY 49

2. ABSENT WITHOUT LEAVE

(a) Still Absent 0700 hrs (8th day)	SM 9160	TPR	BIRMINGHAM	R.R.	RCAC	15 MAY 49

3. RENTALS EMERGENCY MARRIED QUARTERS

Occupying Ste No. 2 Hut No. 48 at Monthly Rental of $18.00 (Auth: QMG Circ Letter 11/48)	SL 111137	PTE	DELAINEY	P.J.	RCASC	13 MAY 49

4. MONTHLY ALLOWANCES

(a) Ceases to be carried on Married Roll 31 Aug 48) and ceases to draw Marriage Allce (Auth: HQ SH26794 Adm A1(a) d/4 May 49)	SH 26794	L/CPL	MC MITCHELL	S.W.	RCAC	31 AUG 48

"Certified true Copy"

(A.D Raisbeck) Capt & Adjt
Lord Strathcona's Horse (RC)

4. MONTHLY ALLOWANCES - CONT'D.

(b) CANCELLATION

Ceases to be carried on Married Roll (7 Mar 49) and ceases to draw Marriage Allce. (Auth: HQ SH26794 FL 1686 Adm Al (a) d/21 Oct 48) Para 5(a) Pt. II "O" 163 d/17 Dec 48	SH 26794	TPR	MC MITCHELL	S.W.	RCAC	31 MAR 48

5. CLASSIFICATION & GROUPING OF PAY

(a) To draw basic rate of pay of Sgt (Auth: Para 109 P&A (Army))	SH 26269	SGT	MC CUMBER	J.M.	RCAC	12 MAY 49
(b) Upgraded Tpr (First Class) To draw increase of Pay (Auth: Para 109 P&A (Army))	SD 122729	TPR	DARBER	F.	RCAC	7 APR 49

(c) CANCELLATION

Upgraded Tpr (First Class) To draw increase of Pay (Auth: Para 109 P&A (Army)) Para 8(a) Pt II "O" 48 d/22 Apr 49	SD 122729	TPR	DARBER	F.	RCAC	20 APR 49

6. STRENGTH DECREASE

(a) SOS to No. 10 Personnel Depot for Discharge under KR(Can) 372(xiv)(A) (Auth: Pers 5685 RCAC d/11 May 49)	SC 135825	Tpr	Deckstead	I.D.	RCAC	16 May 49
(b) SOS to Royal Cdn School of Sigs, KINGSTON, Ont (Auth: Pers 5064 RC Sigs d/23 Apr 49)	SL 57618	SGMN	JOHNSTON	J.S.	RC SIGS	13 MAY 49

UNIT: LORD STRATHCONA'S HORSE (ROYAL CANADIANS)(2 ARMOURED REGIMENT)(SHEET NO. 3)DATED: 16 MAY 49. PT II "O" NO. 59. 1 0 1 0 2

"C" MISCELLANEOUS

CDN ARMY (RF) OFFICERS

(a) TOS from No. 10 Personnel Depot (Auth: Pers 1832 A1 d/3 Mar 49)	TM 12432	CAPT	J.V.P.	CHATWIN	RCAC	8 MAY 49
(b) TOS from No. 11 Personnel Depot (Auth: Pers 1832 d/3 Mar 49)	TK 10047	CAPT	P.J.	COLLINS	RCAC	7 MAY 49
(c) TOS from No. 11 Personnel Depot (Auth: Pers 1832 A1 d/3 Mar 49)	TK 10479	2/LT	D.L.	GLENDINNING	RCAC	8 MAY 49

(A.D. Raisbeck) Captain & Adjutant
Lord Strathcona's Horse (Royal Canadians)
(2 Armoured Regiment) RCAC.

"Certified true Copy"
(A.D Raisbeck) Capt. & Adjt
Lord Strathcona's Horse (RC)

LORD STRATHCONA'S HORSE (ROYAL CANADIANS) (2 ARMOURED REGIMENT) RCAC

Last Part II "O" No. 65

DATED: 27 MAY 1949

This Order No. 66

PUBLISHED BY
LIEUT-COLONEL A.G. CHUBB, DSO
OFFICER COMMANDING

DATED: 30 MAY 1949

PLACE: CALGARY, ALBERTA

1 0 1 0 2

APPENDIX "D"

"A" OFFICERS - NIL

"B" OTHER RANKS

1. TEMPORARY DUTY

(a) Proceeded on Temporary Duty to WAINWRIGHT, Alta. 0900 hrs (Auth: AA Verbal)	SM 6871	TPR	CATHCART	D.H.	RCAC	30 MAY 49
	SF 3285	WO II	MAC DONALD	D.E.	RCAC	30 MAY 49
	SH 9349	L/CPL	STRODEL	L.J.	RCAC	30 MAY 49
(b) Proceeded on Temporary Duty to RED DEER & ECKVILLE Alta 0830 hrs (Auth: GSO 3 West Comd Det)	SH 17	CPL	KIDD	R.W.	RCAC	9 MAY 49
(c) Proceeded on Temporary Duty to SASKATOON, Sask. 2000 hrs (Auth: AG 200(Regina) d/26 May 49)	SL 104433	CPL	PAINTER	J.C.	RCAC	27 MAY 49
(d) Returned from Temporary Duty to RED DEER & ECKVILLE Alta 2200 hrs	SH 17	CPL	KIDD	R.W.	RCAC	11 MAY 49
(e) Returned from Temporary Duty to SASKATOON, Sask. 0630 hrs	SL 104433	CPL	PAINTER	J.C.	RCAC	29 MAY 49

2. LEAVE

(a) Granted 30 dys Annual Leave from	SK 91	L/CPL	WELLS	L.K.	RCAC	28 MAY 49

"Certified True Copy"
(A D Raisbeck) Capt & Adjt
Lord Strathcona's Horse (RC)

2. LEAVE - CONTINUED

(b) Granted 30 dys Annual Leave and 6 dys TT with Ration Allce $20.00 p/m (Auth: Para 156(1) P&A (Army))	SA 125645	TPR	ATTWATER	E.G.	RCAC	28 MAY 49
(c) Granted 14 dys Annual Leave with Ration Allce $20.00 p/m (Auth: Para 156(1) P&A (Army))	SL 53709	TPR	ROSA	W.E. (MM)	RCAC	30 MAY 49

3. ABSENT WITHOUT LEAVE

(a) Returns from AWL at 1100 hrs	SM 9160	TPR	BIRMINGHAM	R.R.	RCAC	26 MAY 49

4. QUALIFICATIONS

(a) Qual Driver i/c "J" Vehs by Driver Testing Team	SH 61202	TPR	WESTERGARD	E.H.	RCAC	4 MAY 49

5. COST OF APPREHENSION

(a) Cost of Apprehension Fare: $15.00 Meals: NIL ETC: NIL	SM 9160	TPR	BIRMINGHAM	R.R.	RCAC	26 MAY 49

6. CLASSIFICATION & GROUPING OF PAY

(a) To draw Pay of Operator RCAC Gp 1	SK 14172	TPR	DUMAS	R.W.	RCAC	23 MAY 49
(b) To draw Pay of Dvr Mech (Tr) Gp 1	SM 100407	TPR	SAGER	A.D.	RCAC	30 APR 49
	SK 12650	TPR	SUTHERLAND	R.J.	RCAC	30 APR 49

6. CLASSIFICATION & GROUPING OF PAY - CONT'd

(c) CANCELLETION

To draw Pay of Operator RCAC Para 9(a) Pt 11 "O" 24 d/24 May 49	SK 14172	TPR	DUMAS	R.W.	RCAC	23 MAY 49

(d) CANCELLATION

To draw Pay of Lvr Mech (Tr) Gp 1 Para 11 (a) Pt 11 "O" 64 d/26 May 49	SM 100407	TPR	SAGER	A.D.	RCAC	29 APR 49
	SK 12650	TPR	SUTHERLAND	R.J.	RCAC	29 APR 49

"C" MISCELLANEOUS

C.O.T.C.

(a) CANCELLATION

Granted leave of Absence Without Pay from Sec "C" Para (a) Pt 11 "O" 55 d/9 May 49	M 584078	OFFR CADET	W.J.A.	TOOLE	COTC	1 MAY 49

(b) CANCELLATION

Returned from Leave of Absence without Pay Sec "C" Para(d) Pt 11 "O" 55 d/9 May 49	M 584078	OFFR CADET	W.J.A.	TOOLE	COTC	6 MAY 49

(A.D. Raisbeck) Captain & Adjutant
Lord Strathcona's Horse (Royal Canadians)
(2 Armoured Regiment) RCAC

"Certified True Copy"
(A.D Raisbeck) Capt & Adjt
Lord Strathcona's Horse (RC)

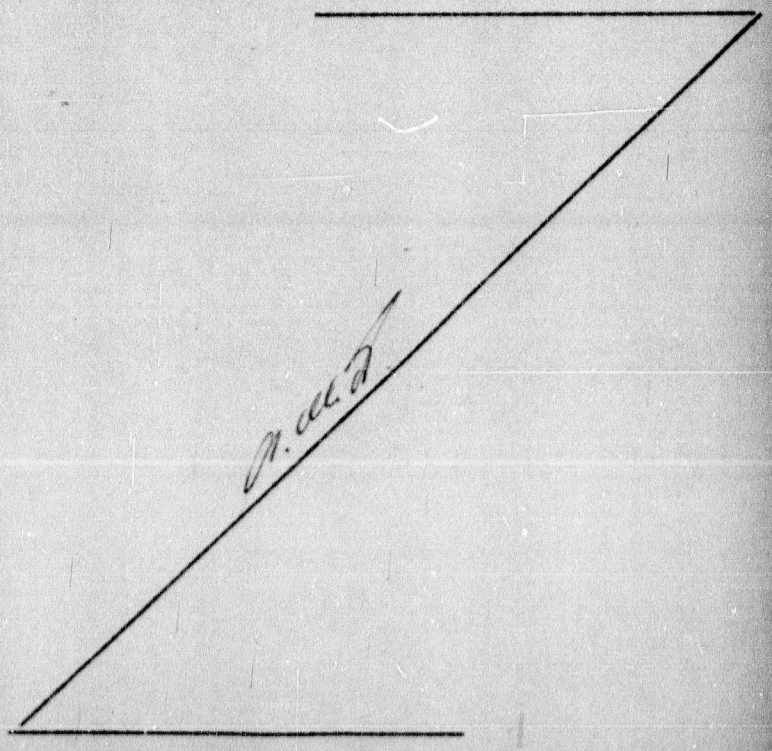
"J"

ADDRESS BY DEFENDING OFFICER
IN MITIGATION OF PUNISHMENT

Mr. President and Gentlemen:

The accused is a very young soldier with a very short term of service to date. He is only 19 years of age and has 8 months and 24 days service. During that time he has never had a crime of any nature -- for minor infractions or major ones. Since his enlistment he has had no leave, absolutely none. During Christmas he was on duty in Camp Borden -- where he was posted for training -- and he had approximately 12 day's leave entitlement coming to him. He realized, of course, it was a privilege and he made application for this leave. The application was refused. The accused has told me his reason for committing this offence was that he was homesick. Again that is his youth coming into the picture. He has spent 18 days in detention to date -- in civil custody and in detention barracks.

In closing, gentlemen, I would ask you to be as lenient as you possibly can under the circumstances with this young soldier. A harsh sentence might very easily not have the desired effect. I thank you.



H. Bridgeman Maj
President D.O.M.

- Y -

75M—5-43 (145)
H.Q. 1773-39-490
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
SM-9160	Trooper	Robert Reginald BIRMINGHAM	LdSH(RC) RCAC

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

	Within last 12 months		Since enlistment or appointment	
For	N I L	times	N I L	times
For		times		times
For		times		times
For		times		times

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

or

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

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

2. The accused has not been previously convicted by a court-martial or a civil court.

or

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

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

or

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

4. The accused has been in confinement awaiting trial on the present charges, for 2 days in civil custody, and 16 days in ~~Air Force~~ military custody, making a total of 18 days in custody, of which N I L days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 19 yrs, 1 mos, 23 dys

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 20 Sept 1948,

7. The service which the accused is allowed to reckon towards discharge is 8 Mos, ~~14~~ 24 dys.

8. The accused is entitled to reckon 8 Mos, ~~14~~ 24 dys. service for the purpose of determining his pension, etc.

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

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

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

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

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

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 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, Number ..... Rank ..... Air Force

Name ..... of ..... Unit Regiment

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

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

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 13th day of JUNE, 1949

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

(A.D.Raisbeck) Capt & Adjutant

H.Q.C. 55-B-3591 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

DISTRICT COURT MARTIAL

BOUCHER, CLOVIS SE 74665 PTE.

CONFIDENTIAL
H.Q.C. 55-B-3591

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
				JAG	NEW FILE CR. JUL 21 1949		
AUG 11 1949	10/8/49	PA	[illegible]	D Admin	To note + PA	[illegible]	8/8/49
				Admin	PER REQUISITION CR AUG 17 1949		
AUG 19 1949	18 Aug 49	PA	[illegible]	D. Pers	to note special for ding	[illegible]	18-8/49
SEP 1 1949	31/8/49	PA.	B	D Admin	PER REQUISITION CR AUG 26 1949	✓	

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for [illegible] or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other [illegible] opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC.85-B-3591 (JAG/O)

B

XXXXXX

The Office of the Judge Advocate General.

8 Aug 49.

DIRECTORATE OF ADMINISTRATION
ARMY
AUG 9 1949
OTTAWA
CANADA

Headquarters, Quebec Command,
3530 Atwater Avenue,
Montreal, P. Q.

DISTRICT COURT MARTIAL
SE-74665, Pte. BOUCHER, Clovis, RCIC,
Royal 22e Regiment, RCIC, CA

1. Receipt is acknowledged of your QC.SE-74665 (J), dated 19 Jul 49, enclosing proceedings of the marginally noted District Court Martial.

2. These proceedings were entered in our records as No. 47101 on 3 Aug 49.

(W.M.W. Shaw) Lt.-Col.
for Judge Advocate General.

WMWS/Eh.

DIRECTORATE OF ADMINISTRATION
ARMY
AUG 26 1949
OTTAWA
CANADA

H.Q. C.55-H-3591
M.D.

MEMORANDUM - DISTRICT COURT-MARTIAL

No SR 74665 Name BOUCHER, C.

Rank Pte Unit R 22e R

Charge AA 18(4) Stealing Public Property
AA 40 (Alternative) - Conduct To The Prejudice, etc.

Date of Crime (1) On or about 19 May 49; (2) On or about 19 May 49;

Date of Arrest 19 May 49 Charge Signed 27 May 1949

Orders for D.C.M. 5 June 1949

Place and Date of Trial Valcartier Camp, P.Q., 7 June 49

Sentence 90 Days Detention

Date of Confirmation 9 June 1949

Date of Promulgation 29 June 1949

Entered in Records of J.A.G. as No. 47101

Date 3 August 1949

MEMO Accused found GUILTY of first charge (Special Finding)
Second Alternative Charge withdrawn.

Recorded. 10 Aug 49

for Judge Advocate-General

CANADA

IN REPLY PLEASE QUOTE No. CONFIDENTIAL
QC. SE-74665 (J)

DEPARTMENT OF NATIONAL DEFENCE

ARMY

REGISTERED

MONTREAL, Que.,
19 July 1949.-

Judge Advocate-General,
Department of National Defence,
Military Stores Bldg.,
OTTAWA, Ont.

Referred to J.A.G.
JUL 21 1949
File No. 355-B-3591
Chgd to

District Court-Martial
SE-74665, Pte Clovis BOUCHER, RCIC,
Royal 22e Regiment, RCIC, CA

Herewith the proceedings of the m/n Court-Martial forwarded for safe custody.

2. Action has been taken pursuant to the provisions of CAO 62-3.

3. May this HQ be informed of the number of registration, please.

Enc/

(R.O.G. MORTON) Major-Gen.
General Officer Commanding,
Quebec Command.

DEF B. 440

MEDICAL OFFICER'S REPORT

I certify that No. SE74665 Pte BOUCHER C.

of R 22e R is in a good state of health,

and fit to undergo Trial by Court martial.

(M. Beaulieu
Medical Officer
(M. BEAULIEU) Capt. RCAMC.

Station M.I.R. Valcartier Camp P.Q.

Date 7th June 1949

M. F. B. 246

50M—5-43 (254)
H.Q. 1772-89-480

A

FORMULE DE PROCES VERBAL DE COUR MARTIALE DE DISTRICT

Procès verbal d'une Cour Martiale de District tenue au Camp de Valcartier, Valcartier, Qué., le 7ième jour de juin 1949, par ordre du Lt-Col. G.O. Taschereau, DSO, Commandant Intérimaire du Secteur de l'Est du Québec,

en date du 5ième jour de juin 1949.

PRESIDENT

ZD-2022, Major L.A. Bourbonnais, RCEME,
2ième Cie du Service technique de l'électricité et de la mécanique royal canadien, AC.,

MEMBRES

ZD-364, Capt M. Savard, RCOC,
2ième Dépot des magasins militaires du Secteur, AC.,

ZE-219, Capt J.P.G. Perusse, CIRC,
Royal 22e Regiment, CIRC, AC.

ZC-1989, Major G.A.M. Nantel, Liste Gen.,
AJAG, QG Région de Québec, AC., JUGE AVOCAT

Procès de SE-74665, soldat Clovis Boucher, CIRC,
Royal 22e Regiment, CIRC, AC.

L'ordre de convocation de la Cour, l'acte d'accusation et le sommaire de la preuve sont déposés devant laCour.

La Cour s'assure que les prescriptions des Règles de Procédure 22 et 23 ont été observées. ✱

L'accusé est amené devant la Cour.

Procureur, Capt J.H. Primeau, CIRC,
4ième Dépot d'effectif, AC.

Officier Défenseur: Lt-Col S.G.G. Parent, CEOC,
Contingent de l'Université Laval, CEOC, AC.

L'audience commence à 1400 heures.

L'ordre de convocation de la Cour est lu et est marqué "X" signé par le Président et versé au dossier.

Les noms du président et des membres de la Cour sont lus à portée d'oreille de l'accusé et chacun d'eux répond à l'appel de son nom.

Q.1 - Président à l'accusé. Avez-vous objection à être jugé par moi comme Président, ou par un des officiers que vous venez d'entendre nommer?

R.1 - de l'accusé Non, monsieur

✱ Je me suis assuré qu'aucun des officiers désignés comme membres de la présente Cour n'a précédemment fait partie d'un conseil d'enquête constitué en vue d'instruire l'affaire dont est saisie la présente Cour martiale.

L.A. Bourbonnais
Président, C.M.D.

Le Président, les membres et le juge avocat sont dûment assermentés.

Q.2 Avez-vous objection à ce que mademoiselle Flore Turcotte, employée civile, et SE-21018, S/Sgt Emile Dubé, soient employés comme sténographes?

R.2 Non, monsieur.

Mademoiselle Flore Turcotte et SE-21018, S/Sgt Emile Dubé, sont dûment assermentés comme sténographes.

ACTE D'ACCUSATION

L'acte d'accusation est signé par le Président, marqué "B-2" et versé au dossier.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation ci-dessus.

Q.3 Sont-ce là votre matricule, votre grade, votre nom et votre unité?

R.3 Oui, monsieur.

Q.4 Etes-vous coupable ou non du premier chef d'accusation porté contre vous et dont vous venez d'entendre lecture?

R.4 Non coupable.

Q.5 Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture?

R.5 Coupable, monsieur.

Comme l'accusé a plaidé non coupable à l'accusation alléguant l'infraction la plus grave et s'avoue coupable à l'autre accusation facultative, la Cour instruit la cause sous l'empire de la règle de procédure 37 (A) comme s'il s'était déclaré non coupable à l'une et à l'autre accusation.

"B-2"

President C.M.T.

CHARGE SHEET

The accused, SE-74665, Private Clovis BOUCHER, RCIC, Royal 22e Regiment, a soldier of the Canadian Army (Active Force) is charged with:

1ST CHARGE
Sec 18 (4)
Army Act

STEALING PUBLIC PROPERTY

in that he

at Valcartier Camp, Valcartier, Quebec, on or about the 19th of May 1949, stole ninety-three (93) sheets, GS, public property, valued at $123.69, from the Quartermaster Stores of the Royal 22e Regiment, CA.

2ND CHARGE
(Alternative)
Sec 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at Valcartier Camp, Valcartier, Quebec, on or about the 19th of May 1949, improperly and without consent of the Quartermaster, removed ninety-three (93) sheets, GS, public property valued at $123.69 from the Quartermaster Stores of the Royal 22e Regiment, CA.

(G.A. TURCOT) Lt.-Col.,
Officer Commanding,
Royal 22e Regiment, RCIC.

27th May, 1949,
Valcartier Camp,
Valcartier, P.Q.

To be tried by District Court-Martial.

VALCARTIER CAMP, P.QUE.,
5 JUN 49

(G O TASCHEREAU) Lt Col
A/Commander
Eastern Quebec Area

C

PROCEDURE SUR UNE DENEGATION DE CULPABILITE

Q.6 Désirez-vous demander un ajournement, sous prétexte que l'une quelconque des règles de la procédure antérieure au procès n'aurait pas été observée, vous causant ainsi préjudice, ou que vous n'auriez pas eu assez de temps pour préparer votre défense?

R.6 Non, monsieur.

Le Procureur ne désire pas donner un exposé des faits.

Le Procureur procède à l'appel des témoins.

Premier témoin à charge

ZD-491, Lieut R. Gauthier, No. 2 Ordnance Ammunition Depot, RCOC, étant dûment assermenté est interrogé par le Procureur:-

Q.7 Votre numéro régimentaire, votre nom et emploi?

R.7 ZD-491, Lieut R. Gauthier, No. 2 O.A.D., RCOC, employé comme "Camp Ordnance Officer", Valcartier, Qué.

Q.8 Au cours du mois de mai, avez-vous eu l'occasion de découvrir dans le camp de Valcartier des effets abandonnés?

R.8 Oui, monsieur.

Q.9 Voulez-vous raconter à la Cour les circonstances en mentionnant la date et le lieu?

R.9 Le 20 mai 1949, vers 0945 heures, je me rendis à à peu près 100 verges de la Maison de Garde du No. 33 O.A.D., et j'ai vu des draps. Aussitôt que je me suis aperçu qu'il y avait une marque du Gouvernement Canadien, j'ai appelé les "Provosts".

Q.10 Combien y en avait-il?

R.10 Je n'ai pas compté, monsieur.

Q.11 Est-ce que ces draps-là étaient dans un contenant quelconque ou libres dans le champ?

R.11 Ils étaient libres, monsieur. Il y en a quelques-uns qui étaient dans des paquets enveloppés dans du papier.

Q.12 Les avez-vous examinés, ces draps-là?

R.12 Très brièvement, monsieur. Aussitôt que j'ai vu une marque du Gouvernement...

Q.13 Quelle sorte de marque y avait-il?

R.13 Un "C" avec une flèche dedans.

Q.14 Voulez-vous examiner ce paquet et dire à la Cour s'il s'agit des draps que vous avez vus dans le champ, le 20 mai, à 0945 heures?

R.14 Je ne peux pas dire à la Cour que ce sont ces draps-là, que j'ai vus dans le champ, mais seulement, ce sont des draps semblables, d'après la couleur et la marque officielle du Gouvernement.

Q.15 Et vous dites que vous avez avisé qui?

R.15 Le Corps de Prévôté, dans le camp de Valcartier, monsieur.

L'officier défenseur ne désire pas transquestionner le témoin.

De l'avis de la Cour et du juge avocat, il n'est pas nécessaire de se conformer à la R.P. 83 (B).

Le témoin se retire.

Deuxième témoin à charge

Lieut. J.H.S. Cardinal, "B" Det., 6 Coy C Pro C., attaché au Camp de Valcartier, étant dûment assermenté, est interrogé par le procureur:-

Q.16 Au cours du mois de mai 1949, avez-vous eu l'occasion de faire une enquête au sujet de la disparition d'une certaine quantité de draps?

R.16 Oui, monsieur.

Q.17 Voulez-vous raconter à la Cour ce que vous savez personnellement au sujet de cette affaire?

R.17 Vers le 19 ou le 20 mai 1949, à environ 9.00 ou 9.30 heures de l'avant-midi, j'ai reçu un téléphone du Lieut. Gauthier de l'Ordonnance. Je suis allé au No. 33 O.A.D. rencontrer le Capt. Berthiaume et monsieur Poiré, un "civil servant". J'ai découvert dans un champ, à environ cent pieds du chemin une quantité de draps communément appelés "sheets GS".

Q.18 Dans quel état étaient ces draps?

R.18 La grande majorité de ces draps étaient encore enveloppés dans leurs paquets officiels, tels qu'enveloppés à l'Ordonnance. Quelques-uns étaient éparpillés ici et là.

Q.19 Est-ce que vous avez reconnu une certaine marque d'identification?

R.19 J'ai reconnu la marque du gouvernement.

Q.20 Quelle marque?

R.20 La marque coutumière étampée par le gouvernement, un "C" ou un "G".

Q.21 Je vous exhibe une certaine quantité de matériel en coton. Voulez-vous dire à la Cour s'il y a une certaine relation avec ce matériel et ce que vous avez vu dans le champ?

R.21 C'est le matériel que j'ai ramassé dans un champ en arrière du 33 O.A.D.

Q.22 Voulez-vous le produire comme exhibit "G"?

R.22 Oui, monsieur.

Q.23 Qu'est-ce que vous avez fait des draps?

R.23 On les a mis dans un véhicule pour les apporter au Quartier-Général des Provosts à Valcartier, où

on les a comptés.

Q.24 Combien est-ce qu'il y en avait?

R.24 Il y en avait 93.

TRANSQUESTIONNE PAR L'OFFICIER DEFENSEUR

Q.25 Avez-vous eu l'occasion de les compter depuis?

R.25 Non, ils ont été mis dans ces boîtes-là et remis sur signature.

Q.26 Et vous jurez que ceux qui sont là sont ceux que vous avez pris?

R.26 Oui, monsieur, exactement.

De l'avis de la Cour et du Juge-Avocat, il n'est pas nécessaire de se conformer à la R.P. 83 (B).

Le témoin se retire.

Troisième témoin à charge

ZD-189, Capt. Léo Lavigne, Quartier-maître du Royal 22e Régiment, étant dûment assermenté est interrogé par le procureur:-

Q.27 Quelles fonctions occupez-vous?

R.27 Quartier-maître du Royal 22e Régiment, Valcartier, Qué.

Q.28 Connaissez-vous l'accusé dans cette cause?

R.28 Oui, monsieur, je connais le soldat Boucher.

Q.29 Le voyez-vous dans cette Cour?

R.29 Oui, monsieur, à côté de l'officier défenseur. (Le témoin pointe l'accusé du doigt).

Q.30 Quelle relation aviez-vous avec le soldat Boucher?

R.30 Il était mon "storeman".

Q.31 Depuis quelle période?

R.31 Depuis 1947 jusqu'au mois de mai 1949.

Q.32 Voulez-vous expliquer à la Cour quelles étaient les fonctions de l'accusé, le soldat Boucher, à votre bureau?

R.32 Le soldat Boucher était mon "storeman" et sa fonction était de recevoir la marchandise et d'émettre la marchandise.

Q.33 Au cours du mois de mai 1949, est-ce que vous avez subi une certaine perte au Quartier-maître?

R.33 Au mois de mai 1949, j'ai été appelé au Corps des Provosts pour identifier de la marchandise.

Q.34 Vers quelle date?

R.34 Aux environs du 20, je crois.

Q.35 Qu'est-ce qu'on vous a fait identifier?

R.35 Des draps, monsieur.

Q.36 Quelle sorte de draps?

R.36 Ce qu'on appelle communément "Sheets, GS".

Q.37 Combien y en avait-il?

R.37 J'ai compté 90

Q.38 Je vous exhibe un lot de draps produits comme exhibits; pouvez-vous dire à la Cour si ce sont les draps qu'on vous a demandé d'identifier?

R.38 Je ne peux pas jurer que ce sont ceux-là, je n'ai pas mis mon étampe dessus, mais ils sont semblables.

Q.39 Voulez-vous examiner ces draps et nous dire à qui ils appartiennent?

R.39 (Le témoin examine les draps). Je vois ici un étampe du gouvernement.

Q.40 A qui appartiennent-ils?

R.40 Au Département de la Défense Nationale, monsieur.

Q.41 Voulez-vous vérifier si les autres sont semblables?

R.41 (Le témoin en examinant les draps). C'est le deuxième que j'examine et c'est encore la même chose.

Q.42 A ce moment-là quel était, d'après vos livres au Quartier-maître, l'état de vos draps?

R.42 J'ai fait mon inventaire du mois. Après avoir identifié les draps, il m'en manquait de 93 à 100. Il y a toujours la question de buanderie, souvent ils mélangent des draps et des "clothing table".

Q.43 Combien de draps pouvez-vous jurer qu'il vous manquait au Quartier-maître?

R.43 Environ 93.

Q.44 Quelle est la valeur de ces draps?

R.44 $1.33 pièce, monsieur, à 100%.

Q.45 Pourquoi dites-vous à 100%

R.45 Si un drap a été lavé, automatiquement, il perd de sa valeur.

Q.46 Les draps que je vous ai exhibés, ont-ils déjà été lavés?

R.46 (Le témoin examine encore les draps). Je compte 18 qui ont été lavés.

Q.47 Alors, la valeur actuelle de ces draps est de combien?

R.47 75% de $1.33.

Q.48 Vous venez de nous dire qu'il vous manquait environ 93 draps au Quartier-maître, le ou vers le 20 mai. Quand avez-vous fait votre inventaire?

R.48 Le 22, 23 et 24 mai, monsieur.

Q.49 Au moment de cet inspection, où étaient les draps que je viens de vous montrer?

R.49 Chez les Provosts, monsieur.

Q.50 Les draps qui vous manquaient au Quartier-maître, à qui appartiennent-ils?

R.50 Au Quartier-maître, monsieur.

Q.51 Que vous deviez avoir et que vous n'aviez pas?

R.51 A la Défense Nationale.

Q.52 Est-ce que vous avez donné à quelqu'un dans votre Quartier-maître, lapermission d'émettre des draps - pour ces 93 draps?

R.52 Ceux-là? Bien, je n'ai pas donné la permission de les émettre.

Q.53 Expliquez ce que vous venez d'avancer?

R.53 Le soldat Boucher est responsable de faire l'échange, de faire l'émission aux Unités, dont le Royal 22e Regt., et le soldat Boucher est responsable de faire l'émission de la marchandise qui retourne à l'Ordonnance.

Q.54 Quand vous faites l'inspection de draps, quelle est la procédure exigée par les règlements du Quartier-maître?

R.54 Emission de marchandise sur "packing note" tel que prêt. Il y a aussi le "bedding quota" qui est la formule 213. Par exemple ceux qui vont au comptoir pour recevoir deux draps et une taie d'oreiller, on leur fait signer un 213.

Q.55 Quand vous vous êtes aperçu qu'il vous manquait matériellement 93 draps, qu'est-ce que vous avez pu trouver pour couvrir cette émission de draps?

R.55 Je n'en ai pas vus.

TRANSQUESTIONNE PAR L'OFFICIER DEFENSEUR

Q.56 Est-ce vous-même qui avez compté les draps?

R.56 J'en ai fait faire le compte par mes hommes, monsieur.

Q.57 Ceci a été fait avant le sommaire d'évidence?

R.57 Exactement.

Q.58 Etiez-vous sous serment?

R.58 Avant le sommaire d'évidence, non.

Q.59 J'ai ici un exemplaire du sommaire d'évidence dans lequel je lis ce qui suit: "après cela, tel qu'ordonné, nous avons fait une vérification des draps, et il en manquait 90". Etiez-vous sous serment?

R.59 Oui, monsieur.

Q.60 De 90 à 93, il y a toujours une différence?

R.60 J'ai dit qu'il y en avait environ 90.

Q.61 A l'heure actuelle, est-ce que vous les avez comptés avant de venir ici?

R.61 (Le témoin compte les draps). J'ai compté 87 draps.

Q.62 Vous comptez 87 draps et là-dessus 18 qui ont été lavés?

R.62 Exactement cela, 18 qui ont été lavés.

QUESTIONNE PAR LE JUGE AVOCAT

Q.63 Est-ce qu'il y a moyen de vérifier par vos livres, si c'est 93 draps qu'il vous manquait ou 87?

R.63 Il en manquait aux environs de 93. Il y a toujours un mélange de six ou sept draps avec les nappes. Lors de l'inspection du 24 il manquait 102 draps, je crois que c'est dû au surplus de "clothing table". Comme ça va à la buanderie, il y a toujours ça qui fait la différence de un pour un.

Q.64 Ce qui veut dire que sur les 102 draps qui manquaient, il y avait des nappes. C'est pour ça que vous ne pouvez dire qu'il vous manquait tant de draps?

R.64 Exactement.

Q.65 Les draps qui sont devant la Cour, les avez-vous eus en votre possession?

R.65 En ma possession, quand je les ai eus du Corps des Provosts, le 30 mai 1949.

Q.66 Etes-vous certain, après les avoir reçus, s'ils étaient intacts?

R.66 Le 30 mai 1949, j'ai demandé au Lieut O'Neil qui avait un véhicule s'il voulait bien me rendre le service de m'apporter un paquet. Il m'a dit: "certainement" et le Lieut. O'Neil est parti avec son véhicule, avec un de mes hommes, qui est le soldat Brochu.

QUESTIONNE PAR LE PRESIDENT

Q.67 Etes-vous certain que vous aviez ces mêmes draps dans votre magasin avant le 19 mai 1949?

R.67 J'en avais de semblables. Comme je l'expliquais tantôt, c'est très difficile de jurer, parce que tous les draps de l'Armée sont pareils.

De l'avis de la Cour et du Juge-Avocat, il n'est pas nécessaire de se conformer à la R.P. 83 (B).

Le témoin se retire.

Quatrième témoin à charge

SD-51097, Cpl Thomas Louis Girard, No. 33 Ordnance Ammunition Depot, RCOC, étant dûment assermenté, est interrogé par le procureur:-

Q.68 Depuis combien de temps êtes-vous stationné là?

R.68 Cinq mois.

Q.69 Au cours du mois de mai 1949, étiez-vous stationné là?

R.69 Oui, monsieur.

Q.70 Quelle est votre occupation?

R.70 Je suis là comme driver mécanicien.

Q.71 Où demeurez-vous?

R.71 Ici, dans le camp Valcartier, la hutte 600.

Q.72 Avez-vous une automobile?

R.72 Oui, monsieur.

Q.73 Connaissez-vous l'accusé?

R.73 Oui, monsieur.

Q.74 Comment s'appelle-t-il?

R.74 Monsieur Boucher, le soldat Boucher.

Q.75 Depuis combien de temps connaissez-vous Boucher?

R.75 Depuis l'été 1947.

Q.76 Savez-vous quelle fonction il occupe dans l'Armée?

R.76 "Storeman" du Quartier-maître du Royal 22e Regt.

Q.77 Au cours du mois de mai 1949, avez-vous eu affaire à vous rendre au bureau du Quartier-maître du Royal 22e Regt?

R.77 Oui, monsieur.

Q.78 Combien de fois y êtes-vous allé?

R.78 J'y suis allé trois fois.

Q.79 Est-ce que ces fois-là vous avez rencontré le soldat Boucher?

R.79 Oui, monsieur.

Q.80 A quel sujet alliez-vous au Quartier-maître?

R.80 J'avais été envoyé par le soldat Gingras pour chercher quelque chose. Pour une raison ou pour une autre, la première fois je n'ai pas pu rien avoir du soldat Boucher. La deuxième fois j'y suis allé avec le soldat Gingras pour amener de l'ammunition au Quartier-maître du Royal 22e Regt. Boucher a essayé de nous donner quelque chose et il n'a pas réussi. La troisième fois je suis allé pour changer des coveralls, je n'ai pas réussi à changer les coveralls. Le soldat Boucher a demandé au Capt Lavigne s'il pouvait me donner des cartons vides, le Capt Lavigne a dit que oui. Je suis passé en arrière, le soldat Boucher était là et il m'a donné trois boîtes pleines.

Q.81 Pleines de quoi?

R.81 Au premier moment, je ne le savais pas, mais j'ai vu que c'était marqué "sheets" et je voyais que c'était des draps.

Q.82 Quelle grosseur de boîtes est-ce que c'était?

C-15

R.82 Je ne sais pas, il y avait des numéros sur les boîtes.

Q.83 Mais à peu près quelle grandeur de boîtes est-ce que c'était?

R.83 Des boîtes à peu près deux pieds carrés.

Q.84 Combien est-ce qu'il y avait de ces boîtes pleines?

R.84 Il m'a donné trois boîtes pleines. Ensuite le R.Q. est arrivé et il a dit: "je vous prends à sortir du stock du Quartier-maître", là Boucher m'a donné des boîtes vides.

Q.85 Qu'est-ce que vous avez fait ensuite avec ces boîtes-là?

R.85 J'ai laissé les boîtes au garage et je me suis en allé à l'ammunition vu que je travaillais là. Ensuite j'ai dit à Jos. Gingras: "J'ai ton stock, tes draps." Il m'a demandé de les amener à la "gate" des Ingénieurs qui est ouverte dans le moment et qui dans le temps ne l'était pas.

Q.86 Où est-ce que c'est ça?

R.86 C'est en bas, celle qui est ouverte.

Q.87 Est-ce que c'est l'ammunition dump?

R.87 Non.

Q.88 Alors, qu'est-ce qui est arrivé?

R.88 Je n'ai pas voulu les descendre là, réallement je n'étais pas intéressé de me mélanger là-dedans, je les ai laissés dans le garage. Gingras m'avait dit qu'il me rencontrerait là, à la "gate" à 10.00 du soir. Après les vues dans le camp à Valcartier, j'ai été au rendez-vous qu'il m'avait donné et j'ai dit: "Les draps sont près de chez moi, je ne peux pas les amener ici". Il a monté avec l'automobile qu'il occupez chez moi et nous avons laissé le chauffeur devant chez moi.

Q.89 Quiétait ce chauffeur?

R.89 Monsieur Lapointe.

Q.90 Un civil?

R.90 Oui, je le connaissais pas, je l'ai connu ensuite. De là, il voulait que l'on passe à la barrière des Ingénieurs, j'ai refusé, j'ai dit: "C'est trop dangereux de passer par là.

Q.91 Et ensuite?

R.91 On a descendu par la gate de l'ammunition, 33 O.A.D. pour essayer dans le camp. On a été les porter là avec mon char. De là, on a fait le tour et j'ai dit à Gingras de s'en aller, que j'irais le rejoindre. Il a parti avec le chauffeur qui conduisait son automobile, moi je les ai suivis en arrière. On a été chez monsieur Poiré qui est un caretaker de l'ammunition.

Q.92 Où étaient les draps à ce moment?

R.92 Dans la cour de l'ammunition. Le "caretaker" était couché. Moi-même j'ai sonné à la porte et j'ai demandé à monsieur Poiré s'il y avait moyen de passer par la "gate" et la réponse fut non. Il dit: "tu viendras demain matin". Le lendemain matin, je suis parti de chez moi à 8.00 heures moins quart et je me suis rendy à la "gate" par en arrière de l'ammunition et j'ai dit à Gingras: "je ne veux plus m'occuper de cette affaire-là". Alors, il a ouvert la porte, j'ai passé et j'ai été au Quartier-Maître à Québec, sur les Covefields, parce que je devais être habillé ce matin-là.

Q.93 Vous avez dit au début de votre témoignage que vous étiez allé au bureau du Quartier-maître pour voir Boucher pour chercher quelque chose?

R.93 Oui.

Q.94 Qu'est-ce que vous avez dit à Boucher?

R.94 La première fois que je suis allé, je n'ai rien dit à Boucher, je n'ai pas pu le voir. La deuxième fois, je suis allé avec Gingras.

Q.95 Vous étiez tous les trois?

R.95 Oui. C'est Gingras qui a dit quelque chose à Boucher, je ne sais pas quoi.

Q.96 Vous n'avez pas entendu?

R.96 Non.

Q.97 Pourquoi n'avez-vous pas entendu?

R.97 Moi j'avais les vouchers pour l'ammunition et j'ai été voir le Capt Lavigne, il n'a pas voulu les signer, il n'avait pas le temps. Je les ai fait signer par le R.Q. Bédard et quand je suis revenu on s'est en allés.

Q.98 Et la troisième fois?

R.98 Je n'ai pas eu la peine de dire rien à Boucher, il le savait.

Q.99 Pourquoi êtes-vous allé chercher ces boîtes-là?

R.99 C'était pour rendre un service.

Q.100 A qui?

R.100 à Jos Gingras.

Q.101 C'est un service qui coûte cher. Est-ce que vous avez signé un document quelconque avant de sortir ces draps du Quartier-maître?

R.101 Non, monsieur.

TRANSQUESTIONNE PAR L'OFFICIER DEFENSEUR

Q.102 Saviez-vous ce que le soldat Gingras devait faire avec ces draps-là?

R.102 Oui et non, monsieur. Moi je ne savais pas que

c'était des draps en premier lieu. Ensuite, il m'a dit c'est pour "spliter" entre nous trois.

Q.103 Il vous a dit ça à quel moment?

R.103 Gingras m'a dit ça à l'Ammunition, à l'Ordonnance, en travaillant.

Q.104 Avant que vous alliez voir Boucher?

R.104 La journée que j'ai été chercher des draps.

Q.105 Quand vous êtes revenu avec les draps?

R.105 Oui.

Q.106 Jusqu'à ce moment-là, vous ne le saviez pas?

R.106 Non, monsieur.

Q.107 Vous avez un peu d'expérience dans les affaires de Quartier-maître?

R.107 Oui, un peu.

Q.108 Vous saviez donc que normalement quand on sort du stock, il faut avoir des "packing notes"?

R.108 Oui, monsieur.

Q.109 Si je vous comprends bien, lorsque vous êtes revenu au Royal 22e Regt. voir Boucher, vous n'avez pas eu de "packing notes"?

R.109 Non, monsieur.

Q.110 Est-ce que subséquemment, Gingras n'a pas dit qu'il aurait volontairement signé des "packing notes" s'il en avait eus?

R.110 Dans le clink, le lendemain qu'on a été pris, Boucher a demandé à Gingras, il dit: "ça serait une bonne idée si on avait des feuilles, des "packing notes", ça nous couvrirait". Jos. Gingras a répondu: "oui, mais moi ça ne me couvrirait pas".

Q.111 Est-ce qu'il n'a pas été question que cette marchandise aurait été prêtée?

R.111 Oui, on était dans le clink, il a dit: "tu peux passer comme quoi c'était des draps prêtés pour un "stock taking" à l'Ordonnance" et Gingras a dit: "je ne peux pas dire ça, je travaille pas là, nous autres on travaille dans l'ammunition, on ne peut pas dire qu'il nous manque des draps.

QUESTIONNE PAR LE JUGE AVOCAT

Q.112 Les paquets que vous êtes allé chercher chez le Quartier-maître on les avait ouvert?

R.112 Oui, j'ai ouvert les paquets, rendu à l'ammunition.

Q.113 Et qu'est-ce que c'était, ça?

R.113 C'était des draps.

C-21

Q.114 Voulez-vous regarder ce que vous avez devant vous et voulez-vous dire à la Cour si ça y ressemble?

R.114 C'est bien ça, monsieur.

De l'avis de la Cour et du Juge Avocat, il n'est pas nécessaire de se conformer à la R.P. 83 (B).

Le témoin se retire.

Cinquième témoin à charge

SE-103369, Pte J. Gingras, RCOC, 33 Ordnance Ammunition Depot, Valcartier, Que., étant dûment assermenté est interrogé par le procureur:-

Q.115 Quelle fonction remplissez-vous à l'Ordonnance?

R.115 J'étais storeman dans le camp, monsieur.

Q.116 Quel genre de marchandise avez-vous à manier?

R.116 Seulement des munitions, monsieur, à moins qu'on m'envoie travailler ailleurs, pour l'Ordonnance.

Q.117 Quand vous allez à l'Ordonnance, qu'est-ce que vous faites?

R.117 Je manipule de la marchandise pour les stores. Quand il vient des "issues" ou quand on reçoit de la marchandise, on va la chercher au train ou ailleurs pour l'amener aux munitions.

Q.118 Au mois de mai 1949, où travailliez-vous?

R.118 Aux munitions, monsieur.

Q.119 Connaissez-vous l'accusé?

R.119 Oui, monsieur.

Q.120 Comment s'appelle-t-il?

R.120 Pte Boucher, monsieur.

Q.121 Depuis combien de temps connaissez-vous le Pte Boucher?

R.121 Je l'ai connu à peu près en 1943 ou 1944.

Q.122 Quelle fonction remplissait le Pte Boucher, au cours du mois de mai 1949?

R.122 Il était storeman au Quartier-maître du Royal 22e Regt.

Q.123 Avez-vous eu l'occasion de rencontrer le Pte Boucher au cours du mois de mai 1949?

R.123 Oui, monsieur.

Q.124 A quelle occasion?

R.124 Je l'ai vu quelques fois, une fois entr'autres.

Q.125 De quoi vous a-t-il parlé?

R.125 A-propos des draps, monsieur.

Q.126 Le sujet du jour. Voulez-vous raconter à la Cour le sujet de votre entretien avec Boucher?

R.126 Nous nous sommes rencontrés, je lui ai parlé que je voulais avoir quelques draps, je ne lui ai pas dit la quantité. Il m'a dit: "je pense bien que je pourrai bien arranger ça". Une bonne journée, il a dit que je pouvais les envoyer chercher. J'ai envoyé le Cpl Girard au Quartier-maître. Je lui ai dit: "va au Quartier-maître, Boucher a quelque chose pour moi" et pui il est allé une fois et il n'a pas pu les apporter, je ne sais pas pourquoi. Je suis retourné avec lui pour porter de l'ammunition et encore on a rien apporté. En outre il est retourné je ne sais pas trop, je crois que c'est le lendemain et il est arrivé et il a dit: "j'ai eu trois boîtes de draps". Bateau que j'ai dit, j'ai trouvé ça trop, je n'avais pas parlé de trois boîtes de draps, j'avais demandé quelques draps, j'ai trouvé que c'était pas mal trop.

Q.127 Qu'est-ce que vous avez fait avec les draps?

R.127 C'est lui-même, le Cpl Girard, qui les avait mis quelque part, ici à Valcartier, et le soir il a dit: "il va falloir que tu viennes, je ne rentrerai certainement pas dans le camp les chercher".

Q.128 Puis, qu'est-ce qui s'est passé après ça?

R.128 Il a dit: "viens ce soir, je vais les sortir à la "gate" et je te les donnerai là". Je suis arrivé le soir, Girard était là. Il n'avait pas les draps. Il y avait quelqu'un, il n'a pas pu les sortir. Là il m'a dit: "viens avec moi". Je suis allé avec lui et on a essayé d'aller les passer à la "gate" des munitions où on travaille. Nous sommes allés les porter là et nous sommes revenus et là nous sommes allés voir monsieur G. Poiré, le gardien, pour essayer qu'il nous laisse passer. Girard est allé lui demander et il a dit: "non" et moi-même je suis allé lui demander et il n'a pas voulu. Il a dit à Girard: "demain matin, j'ouvrirai, tu pourras passer avec". Le lendemain matin, moi je demeure à Québec, Girard est venu pour passer avec ses draps et M. Poiré n'a pas voulu le laisser passer et puis il est remonté à Québec au Quartier-maître. Il m'a dit ça: "je n'ai pas les draps, Poiré n'a pas voulu que je les passe". Il était aussi embarrassé que moi.

Q.129 Quand vous avez rencontré Boucher pour la première fois, qu'est-ce que vous lui avez dit au sujet des draps?

R.129 Je lui ai demandé s'il y avait des draps qu'il pourrait me passer.

Q.130 Qu'est-ce qu'il vous a dit?

R.130 Je pense qu'on va pouvoir organiser ça.

Q.131 Est-ce que vous avez discuté avec Boucher au sujet de qu'est-ce qu'il lui arriverait s'il vous passait ces draps?

R.131 Il y avait ça, mais c'est pas des draps comme les autres.

Q.132 Est-ce qu'il le savait?

R.132 Certainement, monsieur.

Q.133 Comment pouvez-vous dire?

R.133 Il le savait, quand on en a parlé. Il savait que c'était pour diviser, monsieur.

Q.134 Comment pouvez-vous dire ça, qu'il le savait?

R.134 Quand nous en avons parlé ensemble, il a dit: "je pense bien qu'on va pouvoir t'en passer pour diviser ensuite".

Q.135 Quoi?

R.135 Les draps ou le profit des draps si on les vendait.

L'officier défenseur ne désire pas transquestionner le témoin.

De l'avis de la Cour et du Juge-Avocat, il n'est pas nécessaire de se conformer à la R.P. 83 (B).

Le témoin se retire.

Le Procureur déclare qu'il désire faire admettre en preuve une déclaration que l'accusé aurait faite au Lieut. Leclerc, alors que ce dernier a pris un sommaire de preuve dans le cas de l'accusé. Le Lieut. Leclerc sera le premier témoin sur "voir-dire".

Le Juge-avocat explique alors en quoi consiste le "voir-dire" et quelle est la procédure à suivre.

Premier témoin sur "voir-dire"

ZE-337, Lieut. R. Leclerc, Cie. "C" Royal 22e Regt. étant dûment assermenté, est interrogé par le procureur:-

Q.136 Depuis combien de temps êtes-vous dans le Royal 22e Regt.?

R.136 Depuis environ trois ans.

Q.137 Connaissez-vous l'accusé, le soldat Boucher?

R.137 Oui, monsieur.

Q.138 Avez-vous eu l'occasion de procéder à la prise d'un Sommaire de Preuve dans le cas du soldat Boucher?

R.138 Oui, j'ai eu un Sommaire de Preuve à faire dans le cas du soldat Boucher.

Q.139 A quelle date?

R.139 Il y a environ trois semaines je crois, je crois que c'était le 24 ou le 25 de mai.

Q.140 Est-ce que dans le sommaire, l'accusé a fait une déclaration?

R.140 Oui, le soldat Boucher a fait une déclaration.

Q.141 A quel endroit a-t-il fait sa déclaration?

R.141 A la détention du Royal 22e Regt., en présence du Sgt. Boisvert, des Provosts.

Q.142 Quand Boucher a fait sa déclaration, qui était présent?

R.142 Le Sgt. Boisvert était présent et il a répété cette déclaration-là à deux ou trois reprises devant le S/Sgt Dubé.

Q.143 Je vous parle pour le cas de Boucher.

R.143 Il l'a fait devant le Sgt. Boisvert.

Q.144 Est-ce que vous l'aviez mis sur ses gardes?

R.144 Oui.

Q.145 De quelle façon?

R.145 Je lui ai dit que dans son cas on faisait un Sommaire d'Evidence et qu'il n'était pas obligé de parler, il pouvait parler ou ne pas parler, mais que tout ce qu'il pouvait dire pouvait être amené en Cour-Martiale.

Q.146 Est-ce que vous lui avez lu le texte de laR.P. No. 4? Voulez-vous dire à la Cour exactement ce que vous lui avez lu au soldat Boucher?

R.146 Je ne l'ai pas ici, je ne sais pas le "wording" par coeur.

Q.147 J'ai un Sommaire de Preuve ici, signé par le Lieut R. Leclerc, Royal 22e Regt., Officer taking the Summary, est-ce là votre signature?

R.147 Oui.

Q.148 Voulez-vous dire à la Cour exactement la mise en garde que vous avez donnée à l'accusé?

R.148 "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".

Q.149 Lui avez-vous traduit ça?

R.149 Oui.

Q.150 Dans quel sens lui avez-vous traduit?

R.150 Je lui ai demandé s'il voulait faire un statement ou donner évidence sous serment. Je lui ai dit qu'il n'était pas obligé de le faire, mais que s'il désirait le faire, ça pourrait servir contre lui en Cour-Martiale.

Q.151 Lui avez-vous posé des questions au cours de sa déclaration?

R.151 Je lui ai posé quelques petites questions pour éclaircir les réponses qu'il me donnait. Il n'était pas très clair dans ce qu'il voulait dire.

Q.152 Est-ce que vous lui avez fait des promesses ou des menaces?

R.152 Je ne lui ai pas fait de promesses ou de menaces, je ne lui ai pas dit que j'étais là pour aider à le faire parler, mais que j'étais là pour être juste et que je représentais mon Commandant dans ce cas.

Q.153 De quelle façon avez-vous pris sa déclaration?

R.153 Je l'ai écrite mot à mot pendant qu'il parlait.

Q.154 Après que la déclaration a été faite, qu'est-ce que vous avez fait?

R.154 Je l'ai fait signer.

Q.155 Il l'a relue?

R.155 Oui, il l'a relue.

Q.156 Avant ou après qu'il signe?

R.156 Avant, quand il a signé et après j'ai été porter le Sommaire d'Evidence; je lui ai demandé s'il voulait relire avant de signer et il a dit non.

Q.157 Vous avez dit que le Sgt Boisvert était là?

R.157 Oui.

Q.158 Au cours de la déclaration de Boucher, est-ce que le Sgt. Boisvert a fait des commentaires ou posé des questions?

R.158 Non.

Q.159 Avez-vous influencé l'accusé dans le but de l'amener à parler, à faire une déclaration?

R.159 Non.

L'officier défenseur ne désire pas transquestionner le témoin.

QUESTIONNE PAR LE JUGE AVOCAT

Q.160 Vous dites que vous lui avez posé des questions. Quelles sont ces questions?

R.160 Là, je ne peux pas dire. Quand le soldat Boucher parlait, ses phrases ne se suivaient pas, il sautait d'une affaire à l'autre et pour éclaircir l'histoire je lui disais de me dire ça dans ses propres mots et que ça serait plus facile à marquer, afin qu'il y ait une suite dans cette affaire-là.

De l'avis de la Cour et du Juge-Avocat, il n'est pas nécessaire de se conformer à la R.P. 83 (B).

Le témoin se retire.

Deuxième témoin sur "voir-dire"

SD-144518, Sgt. R. Boisvert, C Pro C, Royal 22e Regt., étant dûment assermenté est interrogé par le procureur:-

Q.161 Connaissez-vous l'accusé?

R.161 Oui, monsieur.

Q.162 Quel est son nom?

R.162 Pte Boucher, monsieur.

Q.163 Avez-vous eu l'occasion d'assister au Sommaire de Preuve dans le cas de l'accusé?

R.163 Oui, monsieur.

Q.164 Quand?

R.164 La semaine passée, monsieur.

Q.165 Qui a pris le Sommaire de Preuve?

R.165 Le Lieut Leclerc, monsieur.

Q.166 A quel endroit?

R.166 Au Corps de Garde, hutte No. 101.

Q.167 Est-ce qu'au cours du Sommaire de Preuve, l'accusé a fait une déclaration?

R.167 Oui, monsieur.

Q.168 Est-ce qu'avant de faire cette déclaration, l'accusé a été mis sur ses gardes?

R.168 Oui, monsieur.

Q.169 Qui l'a mis sur ses gardes?

R.169 Le Lieut Leclerc lui a lu la formule, lui disant qu'il n'était pas obligé de rien dire, que s'il le faisait cela serait pris par écrit et pourrait servir d'évidence.

Q.170 Est-ce que le Lieut Leclerc lui a posé des questions au cours de la déclaration?

R.170 Oui, monsieur; seulement quand les choses n'étaient pas claires dans les réponses de Boucher.

Q.171 Est-ce que des menaces ou promesses lui ont été faites pour l'inciter à faire des déclarations?

R.171 Non, monsieur.

Q.172 Est-ce que vous lui avez vous-même posé des questions?

R.172 Non, monsieur.

Q.173 Etiez-vous seul avec le Lieut Leclerc?

R.173 Oui, monsieur.

Q.174 Est-ce que des promesses ou menaces ont été faites à l'accusé?

R.174 Non, monsieur.

L'Officier défenseur ne désire pas transquestionner le témoin.

De l'avis de la Cour et du Juge Avocat, il n'est pas nécessaire de se conformer àla R.P. 83 (B).

Le témoin se retire.

Plaidoyer de l'Officier Défenseur sur "voir-dire" (voir document marqué "H")

C-33

Plaidoyer du procureur sur "voir-dire" (voir document marqué "I").

La Cour lève séance, afin d'arrêter sa décision.

La Cour décide d'admettre la déclaration faite par l'accusé au Sommaire de Preuve, reprend l'audience, annonce sa décision et passe outre au débat.

Sixième témoin à charge

ZE-337, Lieut R. Leclerc, Cie. "C" Royal 22e Regt., est rappelé devant la Cour et sous le même serment est interrogé par le Procureur:-

Q.175 Voulez-vous lire à la Cour la déclaration que vous a fait l'accusé, quand vous avez pris le Sommaire de Preuve?

R.175 Après la "Question to the accused" voici la réponse que Boucher m'a donnée: "Lundi ou mardi dernier, j'ai rencontré le soldat Gingras au mess des hommes et il m'a demandé si je pouvais lui prêter environ une centaine de draps "pour le stock taking de l'Ordonnance". Je lui ai dit que je penserais à cela et que je lui dirais. Plus tard, je lui ai dit que ça pouvait se faire. Je lui ai demandé quel temps il pourrait me les remettre et sa réponse fut pas plus tard que samedi matin. Là-dessus, il me dit: "C'est juste pour une couple de jours." Durant la semaine ils sont venus une couple de fois. Comme je ne voulais pas/le /que Capt s'en aperçoive, je n'ai pu le faire. Le jeudi, le Cpl Girard est venu au Quartier-maître pour chercher des cartons que Gingras voulait. Je lui ai donné trois cartons de draps contenant 30 draps chacun. En même temps je lui ai donné quelques cartons vides pour ne pas que le R.Q. et le Capt s'en aperçoivent qu'il y avait des pleines dans les vides. Le Cpl Girard a parti avec le véhicule. Le vendredi, je fus demandé chez le Capt Barre et je fus mis "close arrest". J'ai demandé à Gingras samedi soir s'il aurait signé le "packing note" en deux copies, si je lui en avais fait un. En la présence du Cpl Girard il m'a répondu que oui. Ce matin, le 24 mai, je lui ai demandé en la présence du Cpl Girard si je lui avais donné les draps ou prêtés et il m'a répondu: "tu me les as prêtés". (Signé: C. Boucher).

Q.176 Est-ce que l'accusé a dit autre chose?

R.176 L'accusé n'a pas mentionné autre chose.

Q.177 La déclaration que vous venez de lire, était-elle complète, est-ce qu'elle comprend tout ce que l'accusé vous a dit lors du Sommaire de Preuve en réponse à la mise en garde que vous lui aviez donnée?

R.177 Oui, monsieur.

L'officier défenseur ne désire pas transquestionner le témoins

De l'avis de la Cour et du juge-avocat, il n'est pas nécessaire de se conformer à la R.P. 83 (B).

Le témoin se retire.

La Poursuite est close.

La Poursuite est close.

DEFENSE

Q.178 Désirez-vous rendre témoignage?

R.178 Non, monsieur.

Q.179 Avez-vous l'intention de citer d'autres témoins pour votre défense?

R.179 Non, monsieur.

R.P. 40 et 41 expliquées par le Juge Avocat.

Q.180 Avez-vous quelque chose à dire par voie de défense?

R.180 Oui, monsieur.

L'accusé, par voie de défense, dit:

Je voudrais avertir monsieur le Président de la Cour que tout ce que j'ai à dire c'est que la raison pourquoi je ne veux pas prêter serment, c'est parce que dans le moment, je vois que les deux co-accusés dans ma cause ne veulent pas dire tout ce qu'ils savent. Alors dans mon évidence, vous allez lire vers la fin de mon évidence - "ce matin le 24 mai je lui ai demandé en la présence du Cpl Girard si je lui avais donné les draps ou prêtés, et il m'a répondu: "tu me les as prêtés".

Le jour où il m'a demandé pour avoir une centaine de draps, il m'a affirmé que c'était pour couvrir ce qu'on appelle son "deficiency" à l'Ordonnance. Moi, je lui ai dit que cela pourrait se faire, que je pourrais, comme on pourrait dire, le protéger sur le "stock taking". Comme vous le savez on peut avoir des "surprise stock taking". Un "surprise stock taking" c'est comme par exemple, moi-même j'étais au Quartier-maître du Royal 22e Regt. et à toute heure du jour le Quartier-maître de l'Ordonnance pouvait arriver et me demander quel montant de draps j'avais. Nous sommes obligés de faire le "stock taking" et de donner le montant que nous avons au Quartier-maître. Un autre jour ça peut-être des bas et un autre jour des certaines parties de web. Toujours que le 20 mai, je travaillais au Quartier-maître du camp, quand j'ai été appelé vers 11 heures de l'avant-midi. On me faisait demander chez le Capt. Lavigne. Là, je me suis dit: "il y a quelque chose qui louche". En arrivant, j'ai aperçu les draps sur une grande table d'environ 6 pieds. Là, je me suis dit: "les gars se sont fait poigner à les vendre et ils veulent me faire passer pour voleur comme eux autres. C'est exactement ce qui est arrivé.

La raison pourquoi je ne donne pas cet évidence sous serment, je vais vous en dire la raison: le Cpl Girard a parfaitement entendu quand j'ai fait dire à Gingras que j'avais prêté les draps. Il n'a pas voulu l'avouer. La même chose que le "packing note" ils m'ont dit oui. Girard mentionne qu'il ne voulait pas être responsable. Je lui ai dit qu'il n'était pas nécessairement responsable pour ces draps, que les draps lui auraient été livrés à lui. Gingras a même insisté pour que je puisse avoir deux copies de "packing note". Un des hommes du Quartier-maître que je voyais souvent au mess des hommes aurait pu me les signer pour prouver comme de quoi que je leur

avais prêtés et non pas pour les vendre. Si j'avais voulu vendre des draps, je n'avais pas besoin d'aller chercher deux gars de l'Ordonnance pour le faire. J'ai été deux ans au Quartier-maître et j'ai rien dérangé. On m'a déjà accusé de bien des choses dans le passé, mais j'ai toujours été chanceux pour me défendre. La seule raison c'est que les autres ne veulent pas dire tout ce qu'ils savent. Je calcule que ma parole est aussi bonne que les autres, messieurs.

Dans ce cas-ci, si un des co-accusés aurait voulu admettre ce qui s'est dit dans le passage de la salle de détention, je serais consentant à faire le même témoignage sous serment. Comme c'est là, si je consentais à témoigner après ce que les deux autres ont dit, je ne veux pas me faire prendre pour parjure, c'est la raison pourquoi je ne veux pas rendre témoignage sous serment devant cette Cour.

C'est tout.

L'officier défenseur prononce une plaidoirie de clôture (Voir document marqué "J" ci-joint)

Le procureur prononce un requisitoire (Voir document marqué "K" ci-joint)

Le juge-avocat s'adresse à la Cour (voir document marqué "L" ci-joint)

VERDICT

L'audience est levée pour délibérer sur le verdict.

La Cour déclare l'accusé .

SE-74665, soldat Clovis Boucher, CIRC, Royal 22e Regiment, CIRC, AC.,

coupable à l'égard du premier chef d'accusation porté contre lui, excepté que le nombre des draps est réduit de 93 à 87 et que leur valeur est de $109.77 au lieu de $123.69; et non coupable à l'égard du deuxième chef d'accusation porté contre lui.

ANNONCE DU VERDICT

L'audience étant reprise, l'accusé est ramené devant la Cour.

Le verdict est annoncé en séance ouverte et est annoncé comme étant sujet à confirmation.

PROCEDURE PRECEDANT LA SENTENCE

ZE-2539, Capt. J.Y. Gosselin, Adjudant Royal 22e Regt., est dûment assermenté:

Q.181 Avez-vous quelque preuve à produite quant à la réputation et les états de service de l'accusé?

R.181 Oui, monsieur. Je produis MFM 6, et MFB 355.

La déclaration précitée est lue, marquée "Y" "Z" signée par le Président et versée au dossier.

Q.182 L'accusé est-il la personne nommée dans la déclaration dont vous venez d'entendre lecture?

R.182 Oui, monsieur le Président.

Q.183 Avez-vous comparé le contenu de la déclaration précitée avec les livres régimentaires?

R.183 J'ai pris ces informations-là dans les documents personnels de l'accusé, au régiment, monsieur.

Q.184 Sont-ce des copies conformes des livres régimentaires et l'exposé des inscriptions figurant aux feuillets de punitions est-il un résumé juste et fidèle de ces inscriptions?

R.184 C'est ça, monsieur.

L'officier défenseur ne désire pas transquestionner le témoin.

De l'avis de la Cour et du Juge-Avocat, il n'est pas nécessaire de se conformer à la R.P. 83 (B).

Le témoin se retire.

Q.185 Avez-vous quelque chose à dire à la Cour?

R.185 Oui, monsieur par l'entremise de mon officier défenseur. (Voir le document marqué "M").

L'audience est levée pour délibérer sur la sentence.

F

ANNONCE DE LA SENTENCE

Sentence
Détention
90 jrs

L'audience est ouverte et l'accusé est ramené devant la Cour.

La Cour condamne l'accusé

SE-74665, Pte Clovis BOUCHER,
Royal 22e Regt., CIRC, AC.,

à 90 jours de détention.

La sentence est annoncée en séance ouverte; la sentence est annoncée comme étant sujette à confirmation.

Signé à Valcartier, Qué., ce 7e jour de juin 1949.

Gerard Nantel
(G.A.M. NANTEL) Major,
Juge-Avocat

L.A. Bourbonnais
(L.A. BOURBONNAIS) Major,
Président, C.M.D.

CONFIRMÉ

Camp de Valcartier,
Valcartier, P.Q.,
ce 9e jour de juin, 1949.

W. Taschereau
(G.O.Taschereau) Lieut.-Colonel,
Commandant Intérimaire,
Secteur de l'Est du Québec.

Promulgation faite et extraits pris à Valcartier, Qué., ce neuvième jour de juin 1949.-

J. Y. Gosselin
(J.Y. GOSSELIN) Capt.,
Adjudant
Royal 22e Regiment, AC.

Extracts entered as No. 470 in the Record of Courts-Martial kept in the office of the Judge Advocate General this 3rd day of August 19 49

"X"

ORDRES DU LIEUT-COLONEL G O TASCHEREAU, DSO

Commandant Intérimaire du Secteur de l'Est du Québec

COUR MARTIALE DE DISTRICT
SE-74665 soldat Clovis BOUCHER
Royal 22e Regiment, CIRC, AC.,

VALCARTIER QUE 5 juin 1949.

Le détachement d'officiers dont les noms paraissent plus bas se rassemblera à la Hutte 122, Camp Valcartier, P.Que., mardi le 7ième jour de juin 1949, à 1400 heures, afin de juger en cour martiale de district l'accusé dont le nom parait en marge (et les autres personnes traduites par devant eux).

PRESIDENT

ZD-2022 Major L.A. BOURBONNAIS, RCEME
5ième Cie du Service technique de l'électricité
et de la mécanique royal canadien, AC., est appointé président.

MEMBRES

ZD-364 Capt M. SAVARD, RCOC
21ème Dépot des magasins militaires du Secteur, AC.,
ZE-219 Capt J.P.G. PERUSSE, CIRC
Royal 22e Regiment, CIRC, AC.,

MEMBRE SUPPLEANT

ZE-313 Capt R.J.G. DESRIVIERES, CIRC
5ième Section A&T Staff, AC.,

JUGE-AVOCAT

ZC-1989 Major G.A.M. MANTEL, Liste Gen,
AJAG Région de Québec, AC., a été nommé juge-avocat.

PROCUREUR

Capt J.H. PRIMEAU, CIRC
4ième Dépot d'effectif, a été nommé procureur.

OFFICIER DEFENSEUR

Lieut-Colonel S.G.G. PARENT, CMOC
Contingent de l'Université Laval CMOC
est par les présentes nommé Officier Défenseur.

2. L'accusé sera prévenu et l'on convoquera dûment les témoins.

3. L'Officier Commandant Royal 22e Regiment, CIRC prendra des dispositions en vue de fournir les quartiers, la papeterie, le planton du tribunal et l'escorte nécessaires à l'audience. Le sténographe sera désigné par ce Quartier-Général.

4. Le compte rendu des délibérations sera expédié à l'A. & Q.M.G.A. du Secteur de l'Est du Québec.

Signé à Valcartier, P.Que., ce 5ième jour de juin 1949.

(G O TASCHEREAU) Lieut-Colonel
Commandant Intérimaire
Secteur de l'Est du Québec

EXHIBIT "G" J. H. Burbonnais Maj.
President C.M.D.

87 draps - Sheets GS.

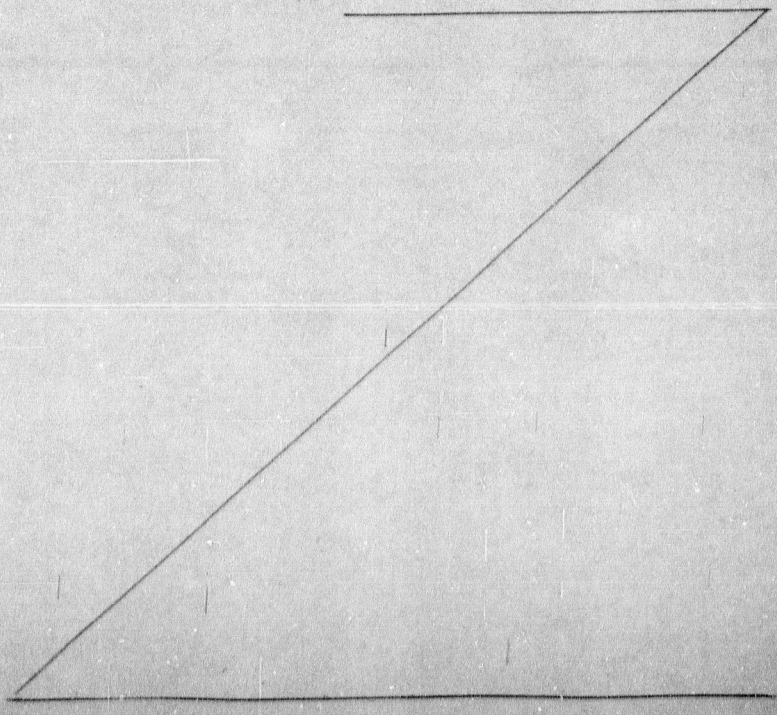
"H"

PLAIDOYER DE L'OFFICIER DEFENSEUR SUR "VOIR-DIRE"

La mise en garde traduite en français n'est pas conforme aux instructions contenues dans le MML Chapitre six, page 92, à l'article 78, sous-paragraphe 5, à savoir que le Lieut Leclerc a pris sur lui d'ajouter que la preuve pourrait servir contre lui.

La deuxième objection est basée sur le fait que lors des questions, le Lieut Leclerc admet qu'il a arrangé les phrases de l'accusé et que, toujours d'après les témoignages, à la suite de ses amendements, de cet arrangement de phrases, la déposition de l'accusé a dû être clavigraphiée et lorsqu'elle lui a été remise, il ne l'a pas relue.

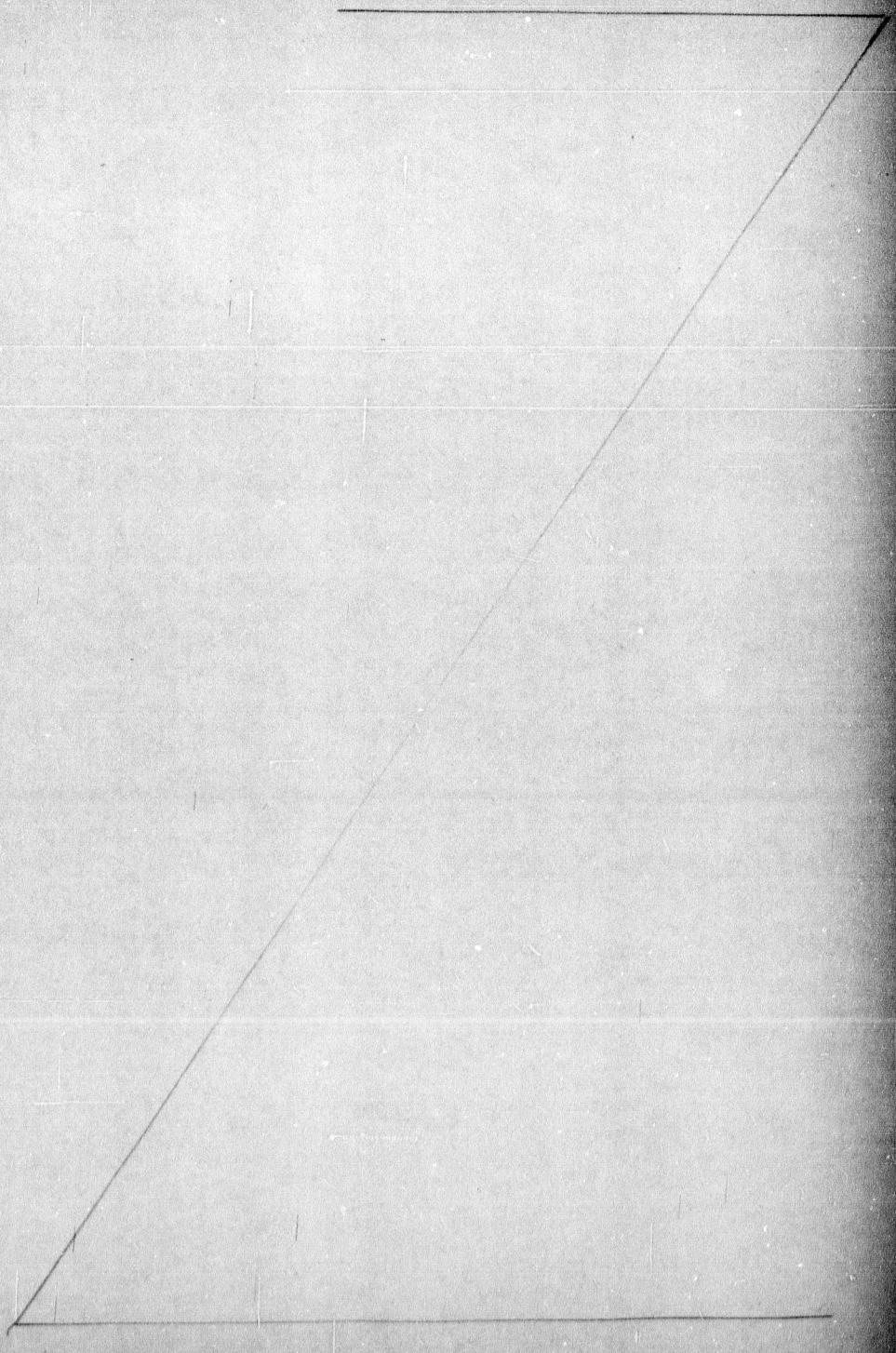
Nous soumettons que ce sont là des irrégularités qui empêchent la Cour d'admettre la confession obtenue de l'accusé.



"I" [signature] Pris. C M D.

Je soumets à la Cour que cette confession semble avoir été obtenue de façon parfaitement légale. Que des questions aient été posées à l'accusé dans le but d'éclaircir des détails, je n'y vois aucune objection et la loi n'en voit pas. Dans ce même article qu'a cité mon savant ami, à la page 92, paragraphe 7: - "For instance, if he has mentioned an hour without saying whether it was morning or evening, or has given a day of the week and day of the month which do not agree, or has not made it clear to what individual or what place he intended to refer in some part of his statement, he may be questioned sufficiently to clear up the point.", on précise et établi clairement que des questions peuvent être posées pour éclaircir certains points. Deuxièmement, messieurs, je soumets que si ce même texte de la déclaration que vous voyez ici n'est pas le mot à mot qu'à dit l'accusé c'est justement une conséquence de cet article de la loi qui permet à quelqu'un qui prend un Sommaire de Preuve de poser des questions sur certains détails afin que le tout soit lisible. Dans cette instance, l'accusé a eu l'occasion de lire le texte et ensuite de le signer. Mon savant ami a dit qu'il ne l'avait pas relu mais nous avons deux témoins qui déclarent que l'accusé l'a bien relu avant de signer. Maintenant le Lt Leclerc dans son témoignage a mentionné les mot "contre lui" mais il s'est repris et a dit "pourra servir en Cour Martiale". Toute cette affaire a été dépourvue de toute promesse ou menace, la déclaration que l'accusé a faite, il n'a pas été forcé de la faire. La mise en garde lui a été donnée en français et en anglais. La "Question to the Accused" mentionné à l'article 4 de la Règle de Procédure" lui a été lue en anglais mais ce matin quand l'accusé est venu pour faire son plaidoyer de non culpabilité, la charge lui a été lue, la Cour lui a demandé s'il désirait qu'elle soit traduite, il a répondu qu'il comprenait la charge et qu'il n'était pas nécessaire de la traduire; il n'y a donc pas de preuve que l'accusé ne comprend pas l'anglais et je soumets qu'il a parfaitement bien compris sur le Sommaire de Preuve le texte en anglais de la mise en garde mentionné à la Règle de

Procédure No. 4. Je soumets donc que cette confession est admissible et a été prise dans des circonstances idéales.



"J" Lt Burbonnier
Prés. Cml.

PLAIDOIRIE DE CLOTURE PAR L'OFFICIER DEFENSEUR

Qu'il plaise à la Cour. L'accusé Boucher a contre lui deux accusations. A la seconde il a commencé par enrégistrer un plaidoyer de culpabilité mais la procédure étant telle, il a fallu faire la preuve au complet et il en résulta que son plaidoyer de culpabilité a été changé en un de non-culpabilité. Au sujet de la première accusation, il incombait à la poursuite de prouver tous les éléments essentiels du vol. Je réfers la Cour au Manuel de Droit Militaire, à la page 22, sous chapître 3, article 33, qui démontrent "the elements of the offence of stealing". L'article 18(4) est l'article en vertu duquel le soldat Boucher est accusé. Alors, les éléments sont ceux-ci: La propriété volée doit avoir été prise et enlevée sans le consentement du propriétaire,

sans droits, avec l'intention "at the time of such taking", au moment où les objets ont été enlevés, d'en priver de force, frauduleusement, son propriétaire. Dans l'occurence, le propriétaire est Sa Majesté ou son représentant, le Ministre de la Défense Nationale. Le soldat Boucher étant employé au quartier-maître, avait possession, il avait accès à ces choses-là, de sorte qu'on a une légère distinction à faire au sujet du vol dans ce cas-ci. Quoiqu'il en soit, la poursuite devait prouver que les objets, en l'occurence les draps qui sont mentionnés dans l'acte d'accusation avaient été enlevés du quartier-maître du R 22e R et que le soldat Boucher faisait partie de cet enlèvement de façon à commettre un vol, avec l'autre élément essetiel, celle de priver de façon permanente le propriétaire de ces objets.

La Cour aura à décider si la poursuite a réussi à établir que le soldat Boucher savait et avait l'intention surtout de faire disparaître pour lui-même ou d'autres personnes la quantité de draps encore indéterminés dont il avait fait remise à un autre militaire. La déposition faite par l'accusé lors de la prise du Sommaire de Preuve établit que Boucher à ce moment là n'avait d'autre intention que celle de venir en aide à un de ses copains de l'Ordonnance; celui-ci lui aurait demandé de lui prêter une centaine de draps pour pouvoir couvrir la quantité qui manquait à l'Ordonnance et où d'autres militaires craignaient d'être pris en défaut. Lorsque les témoins de la poursuite ont été interrogés ils ont admis qu'il y avait eu des conversations relativement à des "packing notes", c'est-à-dire aux feuilles qui auraient pu justifier le soldat Boucher de remettre les draps en question au Cpl Girard, mais ils ont présenté les faits de telle sorte que la déposition faite par Boucher est contredite dans une large mesure et pourrait sembler indiquer de la part de Boucher une intention frauduleuse. Nous soumettons que les témoins essentiels, les "star witnesses" de la cause sont des gens, d'après leur propre témoignage, fortement impliqués dans l'affaire en question. En réalité leur témoignage même démontre que s'il y a eu vol, ils y ont été mêlés tellement pour être considérés comme des complices. Alors, le Juge-Avocat saura probablement indiquer à la Cour le danger qu'il y a de condamner quelqu'un sur des témoignages de complices. La corroboration que la poursuite a pu

amener était sur d'autres faits et non sur l'élément d'intention frauduleuse. Le soldat Boucher amené lui-même a donné une explication très appropriée de la raison pour laquelle il n'a pas voulu rendre témoignage sous serment pour contredire les deux autres témoins; c'est parce qu'il craignait une accusation de parjure. C'est le procès de Boucher que l'on fait en ce moment, celui de Gingras ou de Girard ne nous regarde pas. Il ne reste pas moins qu'il leur semblait en l'absence de connaissances juridiques approfondies, qu'il était dans leur intérêt et que leur témoignage serait de nature à amoindrir leur propre responsabilité. C'est pourquoi le droit Anglais, celui qui nous régit en matière criminel et militaire exige de la part de tribunaux tant de circonspection de la part des juges avant qu'ils ne condamnent une personne sur le témoignage de complices. D'ailleurs si on relit les témoignages de Girard et Gingras il est bien question de "packing notes" dont on aurait discuté au clink mais rien ne prouve et la poursuite ne l'a pas établi non plus, que cette affaire là n'avait pas été organisée tout comme nous le représente Boucher, c'est-à-dire qu'on lui aurait simplement demandé de prêter des draps en s'engageant à les remettre quelques jours après, ce qui s'explique très bien et même si on les avait vendu, les deux autres témoins sont à l'Ordonnance, ils étaient en mesure de se servir à l'Ordonnance et de remettre à Boucher la quantité de draps qu'ils avaient reçu de lui. L'affaire se tient, elle n'est pas du tout impossible et il est très probable que les choses se sont passées de cette façon. Il incombait à la poursuite de l'établir de façon positive et de détruire entièrement le témoignage que Boucher a rendu et qui cadre fermement avec les détails mentionnés à la deuxième accusation et à laquelle Boucher, honnetement et franchement, avait consenti à plaider coupable. Le Juge-avocat vous dira aussi que dans un cas de vol

s'il y a lieu, si la Cour n'est pas satisfaite qu'un vol a été commis de réduire l'accusation automatiquement, sans référer à l'autorité supérieure, en une de "embezzlment"; dans ce cas là aussi il y a l'élément essentiel, il faut prouver que l'accusé avait l'intention de commettre une fraude. Il est de mon devoir de vous signaller que vous devez tenir compte du témoignage rendu par Boucher malgré qu'il n'était pas fait sous serment. Celui qu'il a rendu au Sommaire de Preuve était sous serment mais par le fait d'avoir été contredit par deux témoins sous serment, il craignait être exposé à une action de parjure et il n'a pas osé rendre le même témoignage aujourd'hui. Je soumets donc en résumé que la preuve soumise par la poursuite n'a pu établir autre qu'une culpabilité sous la deuxième accusation sauf en ce qui regarde le nombre de draps. Il est mentionné 93 draps dans l'acte d'accusation et le compte final devant cette Cour est de 87. Je comprends que les draps seront retournés au Régiment et le soldat Boucher n'aura pas à payer mais en principe il reste les draps qui manquent, la différence entre 93 et 87 et au sujet desquels il faudrait établir aussi s'ils étaient neufs ou de seconde main. Ce sont toutes là des considération que la Cour, connaissant la minutieuse manière de procéder en Cour Martiale, saura procéder avec justice. Je demande donc sur le premier chef d'accusation un verdict de non culpabilité.

"K"

REQUISITOIRE DU PROCUREUR

Je maintiens que les éléments essentiels du premier chef d'accusation ont été clairement établis par la poursuite. Quant au deuxième chef d'accusation, qui est alternatif et sous la section 40 de l'Army Act, la poursuite soutient aussi qu'ils ont été prouvés.

Examinons le premier acte d'accusation. Nous allons repasser rapidement la preuve. Environ 90 draps sont découverts dans l'Ammunition Dump. Au même instant, il manque environ 90 draps au bureau du Quartier-maître. Ces draps portent l'étampe du Gouvernement Fédéral, indiquant qu'ils constituent une propriété publique, tel que mentionné dans l'acte d'accusation. Au bureau du Quartier-maître il manque 90 draps, l'accusé, Boucher, est employé comme "storeman" - il s'agit maintenant de faire le lien. Comment sommes-nous parvenus à faire le lien? Nous avons eu le témoignage, je dirais, des deux co-accusés, Girard et Gingras. J'admets avec mon savant confrère, que Girard et Gingras sont complices, et je dois de même vous dire qu'il est dangereux de condamner des gens sous le témoignage de complices, que si ce témoignage est corroboré, un verdict de culpabilité peut être rendu et il est parfaitement légal, mais dans le cas qui nous occupe, le témoignage des complices est corroboré dans une mesure suffisante pour permettre d'attacher un verdict de culpabilité sur la première charge. Le témoignage de Gingras et de Girard, il est inutile de les analyser, ils se corroborent parfaitement bien. Tous les deux vous disent: "nous avons d'abord discuté avec Boucher pour sortir du Quartier-maître un certain nombre de draps". "Nous sommes allés au QM, nous avons sorti un certain

nombre de draps, on ne sait pas combien, mais une certaine quantité". Ce fait-là est corroboré, vous avez le Quartier-maître qui vous a dit qu'il lui manquait à cet époque-là environ 90 draps.

Ensuite, ces deux complices vous font suivre le voyage suivi par les draps dans le camp. Le voyage se termine à l'Ammunition Dump - c'est une autre corroboration absolument indéniable.

Une troisième corroboration circonstancielle, en autant que ces témoignages sont concernés, c'est la déclaration de l'accusé qui vous dit que comme question de fait il a remis à Girard, à/demande /la de Gingras, il a remis un certain nombre de draps. Il ne dit pas qu'il leur a donnés, mais il leur a prêtés - le fait matériel, il leur a passés. Ceci est logique et se tient parfaitement bien.

Leur témoignage est non seulement absolument légal, mais il est de plus de votre devoir d'en tenir compte. En plus de ça, ces deux témoignages corroborés de la façon que je viens de vous dire constituent une preuve que la Défense n'a pu faire sauter.

L'explication de Boucher dans sa déclaration. Boucher nous dit que Gingras lui avait demandé s'il pouvait lui prêter une centaine de draps pour le "stock taking". Gingras est "storeman" à l'Ammunition Depot - il traite uniquement avec les munitions. Girard est driver-mécanicien. Boucher ça fait un certain nombre d'années qu'il travaille comme "storeman" du Royal 22e Regt., il a de l'expérience dans l'Armée. Boucher aurait cru que Gingras avait besoin d'une centaine de draps... pensez-vous que ce témoignage est logique? C'est absolument un non sens. Ce qui est important, c'est qu'il

admet avoir passé des draps à Girard pour ensuite les remettre à Gingras. Boucher savait très bien qu'on ne sort pas de la marchandise comme ça sans la rapporter; et je ne crois pas qu'il avait l'intention de les prêter, à moins d'admettre qu'il soit un grand naïf. Et cela, je ne crois pas qu'il le soit à ce point. D'ailleurs, Girard et Gingras ont absolument nié cette histoire-là. L'accusé dans le clink, disait à ses compagnons: "si on avait des feuilles des "packing notes" ça nous couvrirait". Mais les deux autres qui travaillaient à l'ammunition ont répondu que cela ne les couvriraient pas. Il se trouvait mal pris. S'il avait pu se sortir du trou, il l'aurait fait. Mais les deux témoins, Girard et Gingras, nous disent comment ça s'est passé et leur témoignage ne doit pas laisser aucun doute.

L'intention criminelle - ça ne se prouve pas directement, ça se déduit des faits prouvés devant vous. Inutile d'insister sur ce fait-là - ces draps se trouvent dans l'Ammunition Dump. S'ils en avaient besoin pour le "stock taking" pourquoi alors aller les porter à l'Ammunition Dump? Il est illogique de penser que Boucher ne savait pas pourquoi ces draps-là étaient là.

Je conclus donc en vous disant que les éléments essentiels de l'intention frauduleuse ont été bien établis quant à avoir pris la propriété publique, des draps qui portaient l'étampe du gouvernement, les a sortis dans la permission de son Quartier-maître. L'intention de les remettre; je crois qu'il n'y a aucun doute que si les draps n'avaient pas été découverts, jamais nous n'aurions vu la

couleur de ces draps. Aucune preuve n'a été faite pour permettre de penser le contraire.

Quant au montant, j'admets qu'il faudra le réduire dans la proportion indiquée par le témoin, le Capt Lavigne.

Je vous remercie.

"L"

LE JUGE AVOCAT S'ADRESSE A LA COUR

Depuis le début de ce procès, mon devoir a consisté à donner une direction sur les questions de droit se rapportant à l'admissibilité de la Preuve. Il me faut maintenant résumer les faits établis par la Poursuite et la Défense, sans toutefois exposer d'opinion sur ces faits, et exposer brièvement les questions de droit reliées aux accusations portées contre l'accusé. Si au cours des remarques qui vont suivre, je donnais par mégarde mon opinion sur un ou des faits établis au cours de ce procès, je prie les Membres de ce Tribunal de n'en pas tenir compte.

Je me fais un devoir de vous rappeler que le privilège exclusif et le devoir primordial des membres d'une cour martiale est de donner aux différents témoignages qu'ils ont entendus le degré de crédibilité qu'ils croient approprié et, pour apprécier à leur juste valeur les témoignages entendus, vous ne devez vous laisser influencer par aucun facteur étranger au procès. Vous devrez Messieurs apprécier ces faits en tenant compte des deux principes généraux qui s'appliquent à toute Cour de Justice régie par le droit anglais, à savoir:

(1) que toute personne est présumée innocente tant que sa culpabilité n'a pas été clairement établie.

(2) que celui qui allègue un fait est obligé de l'établir.

Il incombe donc à la Poursuite non seulement de faire une preuve établissant les infractions dont il s'agit, mais de les rattacher à l'accusé. Le fardeau de la preuve sur le verdict repose toujours sur la poursuite.

Avant de considérer et apprécier à leur juste valeur les faits pertinents à cette cause, le Tribunal devra se demander en quoi consiste le vol et quand une

personne peut-elle se rendre coupable d'une telle offense. Le vol, comme tout autre crime, est un acte provenant d'une volonté libre, et défendu par la loi criminelle. Cette offense est donc composée de deux éléments constitutifs essentiels:

un élément physique: L'Actus Reus, i.e. un acte prohibé par la loi.

un élément mental: Le Mens Rea, i.e. la volonté libre de poser cet acte défendu par la loi.

Pour qu'il y ait crime, il faut que ces deux éléments soient réunis à un même objet. En d'autres termes l'intention doit être la cause déterminante de l'acte posé.

Pour les fins de cette cause, on peut définir le vol comme étant le fait de prendre et de s'approprier ou de convertir à son usage, frauduleusement et sans apparence de droit, quelque chose qui peut faire l'objet d'un vol dans l'intention de priver le propriétaire de cette chose. Il est évident que l'intention ne peut être susceptible de preuve positive. Elle s'infère d'actes manifestes. On trouve également une bonne définition du vol à la Section 33 Ch. 3 M.M.L. page 22, ainsi qu'à la Section 50, C . VII, page 118.

Le second chef d'accusation ne soulève aucune question de droit difficile. Pour justifier un verdict de culpabilité sur ce chef, le Tribunal devra être convaincu après s'être servi de la preuve faite et de ses connaissances militaires, que l'accusé a pris sans permission les biens publics mentionnés dans l'acte d'accusation. Si le tribunal en venait à la conclusion que la preuve justifie un verdict de culpabilité sur le premier chef, il devra référer à la Section 54 AA (page 483, note 4, 2ième para) et à la Règle de Procédure 311, note 2, avant de se prononcer sur ce second chef d'accusation.

Je me dois cependant un devoir de rappeler les principes généraux qui régissent les témoignages des complices. Le témoignage d'un complice est généralement un témoignage intéressé. Cependant, le degré de crédibilité à donner à un tel témoignage est laissé à la discrétion entière des membres du tribunal. Il a souvent été décidé par les tribunaux anglais que les jurés ne devraient pas tenir compte d'un tel témoignage à moins qu'il ne soit corroboré par quelqu'autre preuve, et il est de mon devoir de faire remarquer qu'il est ordinairement très dangereux de condamner un accusé sur le témoignage non corroboré d'un complice. Il me faut cependant ajouter qu'il n'existe aucune loi positive en défendant l'acceptation et, même si la Cour en venait à la conclusion que le témoignage d'un complice n'a pas été corroboré, elle pourra légalement agir sur un tel témoignage, bien que la chose soit ordinairement très dangereuse.

Chacune des accusations portées contre l'accusé peut se diviser en un certain nombre d'éléments essentiels et pour justifier un verdict de culpabilité, sur un de ces chefs, le Tribunal devra être convaincu que tous les éléments essentiels du chef d'accusation en question ont été clairement établis.

Le premier chef d'accusation est composé de trois éléments essentiels:

(1) le vol
(2) de propriété publique
(3) en l'occurence des draps

Les éléments essentiels du premier chef d'accusation sont les suivants:

(1) Acte préjudiciable à l'ordre public et à la discipline militaire;
(2) pour avoir été en possession irrégulière
(3) de propriété publique à savoir des draps.

Le Tribunal pourra considérer tous les autres faits mentionnés à l'exposé des circonstances dans chacun.

Je me ferai un devoir de répondre à vos questions du mieux que je le pourrai avant que le tribunal ne

siège en Cour fermée pour considérer le verdict à rendre.

Je vais maintenant revoir rapidement avec vous la preuve présentée tant par la poursuite que par la défense. Le premier témoin est le Lieut Gauthier qui dit que vers le 20 mai 1949, vers 0900 heures, il s'est rendu à l'arrière du dépôt de munitions du camp de Valcartier et a trouvé des draps; quelques-uns étaient développés et il a remarqué que chacun portait la marque d'identification de l'armée, c'est-à-dire un C dans lequel il y a une flèche. Il examine des draps devant la Cour qu'il considère semblables à ceux qu'il a trouvés.

Deuxième témoin, le Lieut Cardinal dit que vers le 19 ou 20 mai, il s'est rendu chez le Capitaine Berthiaume, au 22 OAD et a découvert une quantité de draps qui étaient enveloppés comme ceux de l'Ordonnance. Il a vu aussi la marque de l'Ordonnance, du Département de la Défense Nationale. C'est lui qui exhibe les draps produits à la Cour comme exhibit. Il a compté les draps, il en a compté 93. L

Le troisième témoin, le Capt Lavigne, Quartier-maître du Roval 22e Regt. Il identifie l'accusé et dit qu'il travaille pour lui depuis 1947 et a travaillé pour lui jusqu'en mai 1949. Il a été appelé vers le 20 mai pour identifier des draps chez/membres de la Prévôté. Il examine /les les draps devant la Cour et constate qu'ils portent l'étampe du Département de la Défense Nationale, prouvant qu'ils sont la propriété publique. Il a fait l'inventaire du Quartier-maître et a constaté qu'il manquait environ cent draps, il a dit 102, 90, 87, il n'a pu se prononcer sur le montant exact mais après avoir compté les exhibits devant la Cour il a trouvé 87 draps, et qu'en plus les draps ont une valeur de $1.33 quand ils sont neufs, mais seulement 18 des draps ont déjà été lavés et donc n'ont plus qu'une valeur de 75% de la valeur originale. Il expliqua ensuite à la Cour comment se fait l'émission des articles qui sont distribués

chez le Quartier-maître. C'est par "packing notes", par échange directe ou la distribution se fait sous différentes formules. Il admet à une question de la poursuite qu'il n'a jamais autorisé le soldat Boucher pour l'émission de draps du 20 mai 1949. Le

Le quatrième témoin, c'est le Cpl Girard qui se dit "driver-mécanicien" pour l'Ordonnance depuis cinq mois, attaché au 33 OAD. Il identifie l'accusé, il dit qu'il le connait depuis l'été 1947, il sait qu'il est "storeman" au Quartier-maître du Royal 22e Regiment et au mois de mai 1949 s'y est rendu trois fois ou il avait été envoyé par le soldat Gingras pour chercher quelque chose. La troisième fois, l'accusé lui a donné des cartons vides pour sortir; il a passé par en arrière et Boucher lui aurait donné trois pleines et beaucoup de boites vides, sans préciser le nombre. Ces boites étaient marquées "sheets GS" et elles étaient d'environ deux pieds carrés. Il s'est chargé de prendre ces boites contenant des draps et il les a portées chez lui dans l'intention le soir de les sortir du camp. Il admet qu'il demeure dans le camp. Il admet que vers 1000 heures le soir il a rencontré le soldat Gingras, ils sont montés dans un auto, ils ont pris les draps et ils ont décidé d'aller à la porte du 33 OAD avec l'auto. De là, Gingras s'en est allé et Girard serait resté seul et aurait dit à Gingras d'aller le rejoindre. Là on a jeté les draps et on aurait demandé au gardien de passer ce qui a été refusé. Le lendemain il se serait en allé au Cove Fields à Québec pour aller chez le Quartier-maître. Il admet qu'il n'a jamais signé aucun document pour sortir les draps du Quartier-maître du Royal 22e Regiment. En contre-interrogatoire il a dit que la raison pour laquelle il avait sorti les draps ou avait aidé à les sortir, c'est "Qu'on devait spliter entre les draps", soit Boucher, Gingras et lui-même. Il dit que dans les discussions à la "Guard room", ou dans le "clink" comme il l'appelle, il avait été question

de "packing notes", que Boucher aurait demandé à Gingras de faire un "packing note", que ce serait une bonne idée. Gingras aurait répondu que ça ne le couvrirait pas, qu'il ne pouvait pas faire ça parce qu'il travaillait dans la munition et non à l'Ordonnance.

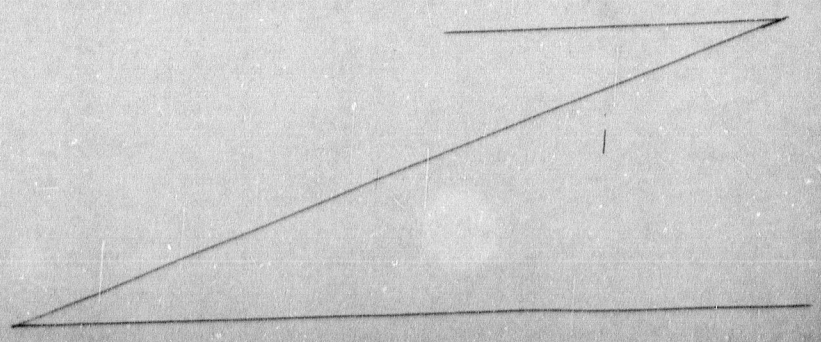
Le cinquième témoin, c'est le soldat Gingras qui est "storeman" à l'Ordonnance, au 33 OAD, où il n'avait à surveiller que des munitions. En mai 1949, il n'a pas manipulé d'autres articles généralement trouvés chez un Quartier-maître ordinaire. Il identifie Boucher et dit qu'il le connait depuis 1944 et sait qu'il travaillait au Quartier-maître du Royal 22e Regt. Il a vu l'accusé à-propos de draps, s'est rencontré avec Boucher et lui a demandé s'il pouvait avoir des draps. Il a envoyé Girard en chercher, il y est allé deux fois pour rien et finalement Girard lui aurait dit qu'il avait obtenu les draps et le soir ils ont fait les arrangements pour se rencontrer et pour essayer de les sortir du camp de Valcartier. Il corrobore le témoin Girard sur le fait qu'ils ont demandé à M. Poiré, le gardien à la barrière des munitions, de passer et que cette permission avait été refusée. Il a dit que Boucher devait avoir sa part, soit des draps, soit de l'argent réalisé si on devait les vendre. Il a examiné les draps produits devant la Cour et dit que ce sont des draps semblables à ceux qu'il avait eus en sa possession. Une journée dans le "clink", Boucher lui aurait demandé de dire que c'était pour un "stock taking" mais il a refusé de le faire.

Les sixième et septième témoins sont le Lieut Leclerc et le Sgt Boisvert qui ont rendu témoignage dans la preuve sur "voir-dire". La Cour a entendu leur témoignage et a accepté la production par la poursuite de la déclaration faite par l'accusé au Sommaire de Preuve. Le dernier témoin est le Lieut. Leclerc qui a lu à la Cour la déclaration assermentée faite au Sommaire de Preuve.

Maintenant, à ce stage de la procédure, avant de laisser la Cour en arriver à un verdict, je dois vous dire que si après avoir étudié la preuve offerte, il existe un doute raisonnable, il doit être en faveur de l'accusé, ça veut dire que si les membres de la Cour ont un doute raisonnable ils doivent en faire bénificier l'accusé. De plus, je dois vous faire ramarquer qu'il y a deux charges dont une alternative, et l'accusé ne peut être trouvé coupable des deux charges. Il peut être acquitté sur les deux charges ou trouvé coupable de la première et acquitté sur la deuxième ou acquitté sur la première et trouvé coupable sur la deuxième, mais il ne peut être trouvé coupable sur les deux.

Maintenant, comme l'a fait remarquer le Procureur de la Défense, en vertu de l'article 56 de l'Army Act, si les membres sont convaincus que l'accusé est coupable d'une offense moindre que celle portée, c'est-à-dire que si quelqu'un est accusé de vol, il peut être trouvé coupable de s'être approprié quelque chose frauduleusement.

Maintenant, je ferai remarquer à la Cour qu'elle peut rendre un verdict spécial quant à la valeur si elle est convaincue qu'au lieu de 93 draps, il y en a 87 seulement et que sur ce montant 18 ont été lavés et valent maintenant seulement 75% de leur valeur, elle peut réduire la valeur mentionnée à l'acte d'accusation.



"M"

PLAIDOYER DE L'OFFICIER DEFENSEUR EN MITIGATION DE SENTENCE

Qu'il plaise à la Cour, les documents produits par l'Adjudant du 22e Régiment, semblent parler par eux-mêmes: ils sont authentiques et vous indiquent de la part de l'accusé un caractère militaire sans reproche, sinon parfait.

Je désire souligner que les états de services du soldat Boucher parlent en sa faveur. Il a toujours travaillé, soit pour l'Ordonnance ou depuis qu'il n'y est plus, au Quartier-maître du Royal 22e Regt. Il a toujours été dans des positions responsables et c'est la première fois qu'il a fait face à une accusation de ce genre.

La Cour a jugé qu'il était coupable. Nous soumettons cependant que les tentations existent depuis longtemps - il aurait pu s'y livrer bien avant ça. Il y a longtemps qu'il est dans l'Armée, il a une femme et cinq enfants à la maison. Il est détenu, attendant son procès depuis dix neuf jours.

Je soumets que dans la sentence, la Cour voudra bien en tenir compte.

Sgt. Treasury or Company } Corps RCIC Date of enlistment } 10 Apr 47 O.C. Badges } Trade Rates of Pay }

No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No. Signature O.C. Company, etc. } Character

sgd (L.P. Lambert) Capt
O.C. 5 D.D.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				NIL					
				CERTIFIED TRUE COPY					

(J.Y. GOSSELIN) Capt & Adjt
Royal 22e Regiment, RCIC

(P.T.O.)

Pres. C.M.D.

"Z"

[illegible] Pres. C.M.D.

M.F.B. [illegible]
MM—4-45 (7476)
H.Q. 1772-39-[illegible]
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
SE-74665	Pte	Clovis Boucher	Royal 22e Regiment

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

	Within last 12 months	Since enlistment [illegible]
For	Nil times	Nil times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct Nil

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

NOTE.—[illegible]

2. The accused has not been previously convicted [illegible]

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

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 19 days in military custody, making a total of 19 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his [illegible] attestation paper is 47 yrs 8 mths 30 days

6. The date of his [illegible] attestation enrolment specified in his record of service is CA(A)29 Apr 43 - 13 Feb 47 enrolment and attestation paper CA(AF) 10 Apr 47

7. The service which the accused is allowed to reckon towards discharge is 10 months 2 days

8. The accused is entitled to reckon 5 yrs 11 mths 23 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no [illegible] military decoration, or [illegible] military reward ([illegible]

10. ([illegible]

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

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

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

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

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

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

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 7th day of June 1949 (J.Y. Gosselin) Capt & Adj't
Royal 22e Regiment, RCIC

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.

Président C.M.D.

SUMMARY OF EVIDENCE
in the case of

SE-74665 Private Boucher, Clovis,
RCIC, Royal 22e Regiment, a soldier
of the Canadian Army (Active Force).

CHARGES

1. AA Sec 40 Conduct to the prejudice of good order and military discipline.

2. AA Sec 18 (4) Stealing Public Property.

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

IST WITNESS

Monsieur Jean Paul Poire, employ as caretaker, Department of National Defence, at # 33 O.A.D. being duly sworn states:

Le 19 mai 1949, environ 2200 heures, quelqu'un sonna a la porte de chez-nous. J'ai ouvert et je suis reste dans la porte pour leur parler. Le Caporal Girard et le soldat Gingras voulaient que je leur ouvre la barriere. Je leur ai repondu non. Ils ont insiste mais la reponse fut toujours non. Ils sont partis disant qu'ils seraient de retour a 0/30 heures le lendemain. Le 20 je suis arrive au magasin vers 0800 heures avec mes hommes. Le Caporal Girard etait la. J'ai ouvert la barriere et j'ai inspecte son char. Il n'y avait rien de louche. Apres cela j'ai telephone au Lieut Gauthier R.C.O.C. pour le prevenir de tout cela. Il est venu me voir immediatement: nous avons cherche dans les environs et nous avons decouverts des paquets de draps que je ne peux dire le nombre. Par la suite le Lieut. Gauthier appela les Provost.

CROSS-EXAMINED BY THE ACCUSED

Q.-1 Quand ils ont demande pour ouvrir la barriere, de quel cote voulait-il aller ?

R.-1 Vers le magasin.

Jean Paul Poire
Jean Paul Poire.

THE ACCUSED DECLINED TO CROSS EXAMINE

2ND WITNESS

Lieut. J.H.S. Cardinal, C Pro,C. # 6 Coy B Detachment, having been duly sworn states:

Le 19 mai 1949, dans l'apres-midi on a fait venir le Capitaine Lavigne et le Pte. Boucher a l'office des Provost. On a demande au Capitaine Lavigne d'etre present a l'interrogatoire du Soldat Boucher. Apres avoir questionne le soldat Boucher, il a admis etre au courant du vol de draps fait au Quartiermaitre du R. 22e.R. On lui a relate les faits, a notre connaissance, tels que nommes ses accomplices qui etaient le Cpl. Girard et le soldat Gingras, tous deux de l'ordonnance, le soldat Boucher nous a dit que les arrangements avaient ete faits avec Gingras et Girard pour sortir les draps du Quartiermaitre. Il nous a dit que son intention n'etait pas de voler les draps, mais plutot de les passer pour quelque temps a un de ces amis, lequel devait lui retourner les draps plus tard. On a demande a Boucher s'il

2nd WITNESS avait l'autorisation de sortir ces draps du Quartier - maitre , et il repondit qu'il avait plusieurs choses qui se faisait dans le Quartiermaitre sans l'autorisation de l'autorite. Un peu plus tard on a confronte Boucher et Gingras ' Ce dernier dementissait toute connaissance du vol mais fut force d'admettre ces connaissances quand Boucher lui dit:n'essaye pas de nous mettre dans le trou tu es aussi coupable que les autres. Le soldat Boucher a admis avec l'aide du Caporal Girard avois mis les draps dans le vehicule, et que cela aussitot fait, le Capitaine Lavigne est entre au Quartiermaitre. Le soldat Boucher a demande au Capitaine Lavigne s'il pouvait remettre des cartons vides a Girard! la reponse fut oui. Il a aussi admis le fait que les journees precedents Girard etait alle lui demander s'il avait des cartons pour le Pte. Gingras. Du a trop de va et vient dans le quartiermaitre,il ne purent ce jour la sortirent les draps en question. La partie fut donc remise au lendemain tel que plus haut mentionne.

THE ACCUSED DECLINED TO CROSS-EXAMINE.

J.H.S. Cardinal, Lieut.

3rdWITNESS SE-103369 Pte. Gingras, J. - Employ at # 33 A.O.D. having been duly sworn states:

Un jour J'ai demande a Boucher s'il y avait des draps que nous pouvions avoir pour diviser et vendre. Il me dit que cela pouvait se faire. J'ai vu le Caporal Girard et je lui ai dit d'aller voir Boucher au 22ieme qu'il avait des draps pour moi, que c'etait autant pour lui que pour moi. La premiere fois Girard ne pu les avoir. La deuxieme fois il m'a dit que les draps etaient caches a quelque part; il m'a dit de venir les chercher. Je suis venu le soir avec un de mes amis, qui me dit: si c'est quelque chose de voler,je n'en veux pas. Je lui ai dit: viens ' ce n'est pas rien de voler, c'est quelque chose que nous avons eu. Comme les draps n'etaient pas sorti du camp , je suis entre dans le camp suivant la machine du caporal Girard & le gardien nous laissa passer. Celui qui etait avec moi a dit: je ne veux pas rien du camp. On a pris les draps dans le char du Caporal Girard,puis ont est alle les porter a la Gate en arriere du depot de munitions. On a demande a monsieur Poire s'il voulait nous laisser passer, et sa reponse fut non. Alors Girard lui dit que demain matin il viendrait avec son char '''Poire lui a dit que le matin il ouvrirait les barrieres. Le soir j'ai mention ne a Poire que s'il nous laissait passer que je l'emmenerais a la peche; il a dit non.

CROSS-EXAMINE THE WITNESS

Q.-1 A quelle heure as-tu parti de Quebec pour monter au Camp ?
R.-1 Vers les neuf heures.
Q.-2 A quelle heure as-tu ete a la gate ?
R.-2 Je ne suis pas certain.

Joseph Gingras
(Joseph Gingras).

4th WITNESS ZP-189 Capt. L. Lavigne, Quatermaster, Royal 22e Regiment RCIC, having been duly sworn states:

Le 19 mai 1949, le Capitaine Barre me fit demander avec le soldat Boucher. On demanda au soldat Boucher s'il connaissait quelque chose au sujet des draps trouves. Le soldat Boucher admis avoir passe des draps au Caporal ~~Star~~ Girard et que les draps devaient lui etre retournes quelques jours apres. Apres cela, tel qu'ordonne, nous avons faits une verification des draps, et il en manquait 9.

THE ACCUSED DECLINED TO CROSS-EXAMINE THE WITNESS

ZP-189 Capt L. Lavigne).

5th WITNESS SD-51097 Cpl. Girard, T.L. R.C.O.C. having been duly sworn states:

Lundi le 16 mai 1949, Gingras est venu me voir pour me demander d'aller lui chercher quelque chose au quartiermaitre du 22e. Je suis alle mais je n'ai pu avoir ce quelque chose la parce que je n'ai pas vu Boucher. Je suis retourne porter des munitions avec Gingras et nous avons rien eu. Je suis retourne encore le 19 et cette fois la, j'ai eu des boites vides et pleines. Je suis parti avec cela, et j'ai ete cache les boites pleines. Le soir meme je me suis arrange avec Gingras pour qu'il vienne les chercher. J'etais suppose de descendre les pleines a la gate des Ingenieurs, mais je n'ai pas voulu me faire pincer alors je ne les ai pas laissees la. En sortant des vues j'ai embarque dans mon char et suis alle a mon rendez-vous environ 2200 heures 2215 heures avec Gingras. Il etait la en dehors de la gate. Je lui ai demande de venir chercher les draps, il a monte chez nous et a refuse de mettre les draps dans son char. Comme j'ai refuse de les sortir du camp, j'y mis les boites dans mon char, et de la, nous les jetions en arriere de la cour a munitions. On est revenu chez nous et j'ai dit a Gingras de s'en aller que j'etais pour aller le rejoindre a l'entree de 33 C.A.D. pour demander a Paul Poire s'il voulait ouvrir la gate pour qu'on passe porter les boites. On l'a reveille et il a refuse. Il me remit au lendemain matin a 0730 heures. Le lendemain matin je suis alle vers les 0745 heures, j'ai ouvert les boites et j'ai demanche les draps. La j'ai vu Paul Poire et lui ai demande pour passer cependant il n'a pas voulu. Quand j'ai vu cela, j'ai laisse les draps dans le bois. Je suis retourne au quartierm aitre de l'Ordonnance a Quebec. Jos. Gingras m'a rencontre et m'a demande si j'avais apporte les draps a Quebec; sa reponse fut non. On est revenu, apres quoi nous avons vu les Provost avec les draps'''''

./4

5th WITNESS

Q.-1 Est-ce que Gingras vous a offert de ~~diviser~~ 'diviser' avec vous ?

R.-1 Oui, il m'a offert $ 25.00

Q.-2 Vous, est-ce que vous saviez que c'etait louche ?

R.-2 Oui, quand il m'a offert de l'argent.

Q.-3 Pourquoi avez-vous continue quand il vous a offert de l'argent ?

R.-3 Comme on avait les draps on a decide de continuer

CROSS-EXAMINED BY THE ACCUSED

Q.-1 Samedi soir passe dans le passage des cellules, j'ai demande a Gingras, que si j'avais eu un Packing Note en deux copies, l'aurais-tu signe ?

R.-1 Oui.

Q.-1 Si j'avais eu un Packing Note ~~et~~ ou et que Gingras aurait signe ?

R.-1 Oui.

Q:-2 Est-ce que j'aurais ete oblige de signer, moi aussi ?

R.-2 Je ne m'en souviens pas

Q.-3 Quand j'ai demande au soldat Gingras ce matin la, si la marchandise lui avait ete donne ou prete qu'a-t-il dit:

R.-3 Il a repondu que si je prends des draps emprunte "pourquoi faire" je ne peux dire que c'est pour vendre

(Caporal T.L. ~~Girard~~).

6th WITNESS

ZD-491 Lieut Gauthier ,J.E.R. Ordnance Officer # 2 Area Ordnance Depot, R.C.O.C., Quebec, P.Q. having been duly sworn states:

Le 20 mai vers 0900 heures j'ai recu un appel de M. Paul Poire gardien du magasin de 33 C.A.D., Valcartier m'avisant qu'il voulait me voir immediatement pour une chose importante. Je me suis rendu immediatement au magasin. A mon arrivee, monsieur Poire m'avisa qu'il y avait quelque chose de suspect et que la marchandise pouvait etre localise. J'ai immediatement telephone

6th WITNESS CONT'D

le C. Pro C. pour les mettre au courant de la chose et leur ai demande la permission de verifier s'il y avait de la marchandise dans les environs. Monsieur Poire m'a l alors conduit a environ 100 verges derriere la chambre de la garde ~~pres~~ des munitions ou j'ai constate qu'il y avait des draps. Apres avoir constate qu'il y avait une marque officielle du gouvernement Canadien sur ces draps, j'ai rapporte la chose au C. Pro. C.

THE ACCUSED DECLINED TO CROSS-EXAMINE

(ZD 491 Lt. Gauthier J.E.R.)

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 THE ACCUSED

Lundi ou mardi dernier j'ai rencontre le soldat Gingras au Mess des hommes et il m'a demande si je pouvais lui preter environ une centaine de draps " pour le stock taking de l'Ordonnance ". Je lui ai dit que je penserais a cela et que je lui dirais - plus tard que ca pouvait se faire. Je lui ai demande quel temps il pourrait me les remettre et sa reponse fut pas plus tard que samedi matin. La-dessus il me dit : c'est juste pour une couple de jours. Durant la semaine ils sont venus une couple de fois. Comme je ne voulais pas que le Capitaine s'en apercoive je n'ai pu le faire. Le jeudi le caporal Girard est venu ~~a~~ au Quartier-maitre pour chercher des cartons que Gingras voulait. Je lui ai donne trois cartons de draps contenant 30 draps ~~de~~ chacun. En meme temps je lui ai donne quelques cartons vides pour ne pas que le R.Q. et Capitaine s'en apercoivent qu'il y avait des pleines dans les vides. Le Caporal Girard a parti avec le vehicule. Le vendredi je fus demande chez le Capitaine Barre et je fus mis close arrest. J'ai demande a Gingras samedi soir s'il aurait signe le Packing Note en deux copies, si je lui en avais fait un. En la presence du caporal Girard il m'a repondu oui. Ce matin le 24 mai je lui ai demande en la presence du caporal Girard si je si je lui avais donne les draps ou pretes, et il m'a repondu tu mes les as preter.

(SE-74665 Pte. Boucher, C).

Certified that Tules of Procedure 4(c)(d)(e)(f) and (g) have been complied with.

Taken down by me in the presence of the accused on the 24 of May 1949.

(. R. LECLERC), Lieut.
Royal 22e Regiment
Officer taken the Summary.

LIST OF WITNESSES FOR

THE PROSECUTION

ZD-189	Capt.	L. Lavigne - R. 22e.R. - Valcartier, P.Q.
ZD-491	Lt.	J.E.R. Gauthier- R.C.O.C) - 2 A.O.D. Quebec,P.Q.
	Lt.	J.H.S. Cardinal- C. Pro. Coy # 6 Coy "B" Det. ~~Valcart~~ Valcartier, P.Q.
SD-51095	Cpl.	Girard, T.L. (RCOC) - 2 AO.D. - Quebec, P.Q.
SE-103369	Pte.	Gingras, J. - (RCOC) 2 AOD - Quebec, P.Q.
Monsieur	J.P.	Poire - 33 A.O.D. - Valcartier, P. Q.
M. J.A.	Lapointe	- 37 Rue de Courcelles, Quebec,P. Q.

Valcartier Camp
24 May 1949.

Sgd (R. Leclerc), Lieut.
Royal 22e Regiment, RCIC.

Président - Lt-Col Turcot
Lt-Maréchal - Lt Col Louis Boucher
Cpt Savard Capt Adjt
Royal 22e Regiment
Valcartier Camp.

ORDRE PARTIE I

par le

Lieutenant-Colonel G.A. Turcot ADC

Dernier Ordre publié, 3 juin 1949 — Commandant, Royal 22e Regiment - R.C.I.C. — Camp Valcartier, P.Q., 7 juin 1949

278. CONSEIL DE GUERRE REGIONAL

Le détachement d'officiers dont les noms apparaissent ci-dessous s'assemblera à la hutte 122 (Salle de danse - Cantine du Royal 22e Régiment) au camp de Valcartier, P.Q., mardi le 7ième jour juin 1949, à 1400 heures, afin de juger par un conseil de guerre régional l'accusé, SE-74665 Soldat Clovis Boucher, Royal 22e Regiment, RCIC, (et toute personne qui pourrait être appelée à comparaître devant cette cour):-

PRESIDENT: ZD-2022 Major L.A. BOURBONNAIS, RCEME
5ième Cie de Service technique de l'électricité et de la mécanique royal canadien, AC., est appointé président.

MEMBRES: ZD-364 Capt M. SAVARD, RCOC
2ième Dépôt des magasins militaires du Secteur, AC.,
ZE-219 Capt J.P.G. PERUSSE, CIRC.
Royal 22e Regiment, CIRC, AC.,

MEMBRE SUPPLEANT:

ZE-313 Capt R.J.G. DESRIVIERES, CIRC
5ième Section A&T Staff, AC.,

JUGE-AVOCAT: ZC-1989 Major G.A.M. NANTEL, Liste Gen,
AJAG Région de Québec, AC., a été nommé juge-avocat.

PROCUREUR: Capt J.H. PRIMEAU, CIRC
4ième Dépôt d'effectif a été nommé procureur.

OFFICIER DEFENSEUR:

Lieut-Colonel S.G.G. PARENT, CEOC
Contingent de l'Université Laval CEOC
est par les présentes nommé Officier Défenseur.

SOUS INSTRUCTION:

ZC-2140 Lt J.J. BELAND, CIRC
Royal 22e Regiment, CIRC, AC.,
ZD-2269 Lt J.A.R. GIGUERE, CIRC
Royal 22e Regiment, CIRC, AC.,
ZE-337 Lt R. LECLERC, CIRC
Royal 22e Regiment, CIRC, AC.,
et 43 autres rangs, CIRC
Royal 22e Regiment CIRC

J.Y. Gosselin Capt & Adjt
Royal 22e Regiment, CIRC

STATEMENT BY THE ACCUSED

In accordance with CAO 62-5 dated 28 Mar 49, I desire the services of Lt.-Col. S.G. Parent, Officer Commanding, Laval Contingent COTC, to represent me at my trial by Court-Martial, if he is available.

Clovis Boucher

(SE-74665 Clovis Boucher) Private
Royal 22e Regiment, RCIC

Valcartier Camp,
Valcartier, P.Q.,
31st May 1949.

H.Q.C. 55-B-3592 ARMY CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

DISTRICT COURT MARTIAL

BOYCE, REGINALD ALBERT FRANK

SC 29668 CPL.

CONFIDENTIAL H.Q.C. 55-B-3592

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
				(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")			
AUG 11 1949				JAG	NEW FILE CR AUG 2 1949		
SEP 19 1949				JAG	WITH PAPERS CR SEP 1 1949		
OCT 3 1949				JAG	[illegible] 1949		
OCT 27 1949				JAG	PER BF CR OCT 14 1949		
				JAG	PER B.F. NOV 1 1949		
				D Admin	Per Request	[illegible]	22/11
NOV 24 1949	28/11/49	PA	WET	O Res (A.)	[illegible]	[illegible]	[illegible]
DEC 19				J.A.G.	PER B.F. DEC 15 1949		
				J.A.G.	PER BF CR JAN 15 1950		
JAN 1 1950	1 Feb 50			D Admin		[illegible]	14/50
				Admin	PER REQUISITION CR JAN 28 1950		
FEB 1 1950	30/1/50	PA	[illegible]	JAG	Memo, please	[illegible]	30 Jan 50
FEB 1 1950	1 Feb	PA	[illegible]	D. Admin	PER BF CR FEB 1 1950		
				D Perd	PER REQUISITION CR APR 8 1950		
JUN 3 1950	2 Jun	PA	[illegible]	Admin	Request	[illegible]	20-5-50
JUL 3 1950	30/6/50	PA	B.	Admin	PER REQUISITION CR JUN 3 1950		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

MEMO

TO: JAG

1 Reference your memo dated 14 Jan 50 (folio 23) requesting information on Boyce's case.

2 Please see folios 24 and 25 showing that Boyce was awarded a severe reprimand by C O Kingston Military Hospital on 10 Jan 50.

30 Jan 50 [signature] Capt for D Adm.

REPLY FROM:

~~[illegible]~~ File:-

Noted, ~~[illegible]~~

WMWS

(W. M. W. Shaw)
Lt.-Col.
DJAG

JAN 30 1950

DIRECTORATE OF ADMINISTRATION
ARMY
JUN 23 1950
OTTAWA
CANADA

DIRECTORATE OF ADMINISTRATION
ARMY
MAY 20 1950
OTTAWA
CANADA

26

CIPHER MESSAGE

ARMY MESSAGE

(INCOMING)

CLASSIFICATION

PLACE FROM | DATE & TIME

OAKVILLE ONTARIO 272052Z JAN 50



FROM ARMY OAKVILLE

TO ~~ARMY OTTAWA~~ D. Adm.

A 8935 CONFIDENTIAL

5E-B-3592

YOUR ADM 0048 DATED 18 JANUARY 50 REFERS SC 29668

CPL BOYCE R A F RCAMC KMH.

AWARDED SEVERE REPRIMAND 10 JANUARY 50 BY CO KMH

30815/AV/2815242 JANUARY 50

(25)

NOTE: THIS MESSAGE HAS BEEN DISPATCHED IN CIPHER AND MUST NOT BE PUBLISHED OR DISTRIBUTED OUTSIDE GOVERNMENT DEPARTMENTS OR HEADQUARTERS OR RETRANSMITTED WITHOUT BEING PARAPHRASED.

C.A.F.B. 338 (4 PARTS)
10M-5-49 (2362)
324-21-8-338

COPY 1

R. L. CRAIN LIMITED

DEPARTMENT OF NATIONAL DEFENCE
MESSAGE FORM
FOR CLASSIFIED MESSAGES ONLY

INDICATE DEGREE OF PRIORITY		FOR MESSAGE CENTRE USE ONLY	MARK X TO INDICATE SECURITY CLASSIFICATION	
			TOPSEC	
OPERATIONAL IMMEDIATE			SECRET	
PRIORITY			CONFID	X
ROUTINE	X	GR	RESTD	

IF NOT MARKED WILL BE TRANSMITTED DEFERRED

FROM: ARMY OTTAWA 18 JAN 50

ACTION ADDRESSEE/S: ARMY OAKVILLE

INFORMATION ADDRESSEE/S

ORIGINATOR'S NO.: ADM 0048

PARA ONE REFERENCE CASE OF SC 29668 CORPORAL BOYCE R A F ROYAL CANADIAN ARMY MEDICAL CORPS KINGSTON MILITARY HOSPITAL CHARGED WITH OFFENCES RELATING TO THE MAKING OF FALSE STATEMENTS ETC ON OR ABOUT 1 NOV 48 stop

PARA TWO PLEASE ADVISE DISCIPLINARY ACTION TAKEN IN THIS CASE

(24)

ORIGINATOR	TELEPHONE	DATE - TIME GROUP		FILE NO.
(W.H.S. Macklin) Major-General	5896	18 1430	Z	HQC 55-B-3592(Adm B1)

C.R.S. 1220/JC-50M-11-48 (2994)
C.A.F.B. 1617 (4 PARTS) - 100M-11-48 (1703)
H.Q. 224-21-B-1617
R.C.A.F. 542-250M-11-48 (5738)

REFERENCE COPY

DEPARTMENT OF NATIONAL DEFENCE
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OPERATIONAL IMMEDIATE

PRIORITY

ROUTINE ✓

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DIRECTORATE OF ADMINISTRATION ARMY JAN 3 1950 OTTAWA CANADA

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FROM ARMY OTTAWA

ACTION ADDRESSEE/S ARMY OAKVILLE

INFORMATION ADDRESSEE/S REPEATED ARMY KINGSTON

ORIGINATOR'S NO. PERS 19842 - RF

RETEL A8584 DATED 22 NOV CONCERNS DISTRICT COURT MARTIAL CPL BOYCE RAF (.) REGRET MAJOR BRIGG NOT AVAILABLE (.)

PARA TWO AUTHORITY GRANTED CALL OUT FROM RESERVE FORCE OR SUPPLEMENTARY RESERVE ONE OFFICER IN RANK MAJ OR CAPT TO ACT AS PROSECUTOR FOR A PERIOD UP TO TEN DAYS (.) PAY AND ALLCES CHARGEABLE AAE 1949/50 VOTE 140 PRIMARY ZERO TWO (.)

PARA THREE LT COL D E LEWIS BROCKVILLE OR MAJ JACK STEWART BROCKVILLE WOULD BE SUITABLE AND SHOULD BE CONSIDERED FOR THIS EMPLOYMENT IF AVAILABLE (.) LEWIS MAY BE CALLED OUT IN RANK LT COL IF EMPLOYED (.)

Noted D. D. Shanks

(22)

ORIGINATOR (W.H.S. MACKLIN) MAJOR-GENERAL ADJUTANT-GENERAL

TELEPHONE 4033

DATE - TIME GROUP NOV 23/ 1145 Z

FILE NO. HQC: 55-B-3592

C.N.S. 1320-C-50M-11-48 (2984)
C.S.F.B. 1617 (4 PARTS)-100M-11-48 (1703)
H.L. 124-21-B-1617
R.C.A.F. 542-355M-11-48 (5736)

FILE COPY

3

M E M O R A N D U M

Recommend

H.Q.C. 55-B-3592 (Pers RF)

TO: D Pers.
(through DD Pers.)

D. DAILLEY
LT. COL.
D.D. Pers.

NOV 23 1949

OTTAWA, Ontario, 23 Nov 49.

CALL OUT UNDER CAO 256-1
Eastern Ontario Area
One Major or Captain

1. Central Command has requested authority to call out one Major or Captain for employment with HQ Eastern Ontario Area for the period of ten days during a Court Martial. (Folio 18).

2. An establishment vacancy will exist within the Command for the period requested.

3. D Pay considers that funds will be available in Annual Army Estimates 1949/50. Vote 140 Primary 02.

4. The case has been referred to the JAG and D Admin who have requested the call out. D Admin considers that a suitable Reserve Force or Supplementary Reserve Officer is available. (Folio 19).

5. For your consideration, please.

Pers RF
Approved!
[signature]
D Pers
23 Nov 49

Earl A. Olmsted
(Earl A. Olmsted), Major,
Pers RF.

21

MEMORANDUM

To : Pay

ATTENTION: Capt Watson

Will funds be available to call out one Capt or Major for the period 10 days only for employment HQ R.O.A.

Earl A. Olmsted

(Earl A. Olmsted) Major,
- Pers RF -

Date 23 Nov 49

ANSWER

To : D Pers

It is considered that funds will be available in Annual Army Estimates 1949/50 when released. Vote 140 Primary 02.

R.C. Watson

(R.C. Watson), Capt O IC
AG Br Accounts Section
Directorate of Pay Services

Date 23 Nov 49

20

1500-Pads of 100-5-48 (1122)
C. A. F. A. 207
H.Q. 224-21-A-207

CANADA

In reply quote No. HQC 55-B-3592 (A&R B2)

DEPARTMENT OF NATIONAL DEFENCE
ARMY
INTER-OFFICE CORRESPONDENCE

OTTAWA, 23 Nov 49.

TO: Pers (A)

~~SC~~ 29666 Cpl Boyce, R.A.F.
D.C.M.

Reference signal one folio hereunder regarding the District Court Martial of Cpl Boyce and the availability of Major Briggs as a prosecutor.

2. The Directorate of Administration is very short staffed at the present time, (awaiting the arrival of two officers on or about 1 Jan 50) and it is therefore felt that Major Briggs cannot be made available for this D.C.M.

3. It is requested that authority be granted to call out under the provisions of CAO 256-1 an officer of the Reserve Force of the rank of Captain or Major for approximately ten days.

4. The D.C.M. in question is a fairly complicated one in that it deals with charges of forgery and the loss of approximately $3,800.00 to the Kingston Military Hospital Canteen. It is suggested therefore, that if possible, an officer with legal qualifications would be best suited as a prosecutor.

(J.A. Hutchins),
Lt-Colonel,
Director of Administration.

M.F.A. 1326
1,800M—5-43 (9985)
H.Q. 1772-39-2008

(19)

ARMY
MESSAGE

Nov 22 01 31 49

INCORRECTLY DELIVERED
RETURN TO ARMY MESSAGE CTR.

PJD 386

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DIRECTORATE OF ADMINISTRATION
ARMY
NOV 22 1949
OTTAWA
CANADA

382/21

RR JCPA JCOKC 222

RR 89

R 212010Z

admin
NOV 22 1949
C 55-B-3592
TP1

FM ARMY OAKVILLE

JAG

TO ARMY OTTAWA (FOR D ADM)

INFO ARMY KINGSTON

GRNC

(1)

A 8584 RELET HQ 65-B-3592 (JAG/E) DATED 17 NOV 49
REFERS APPLICATION FOR DISTRICT COURT MARTIAL SC 29668 CPL BOYCE
RAF STOP HEADQUARTERS EASTERN ONTARIO AREA REQUEST SERVICES OF MAJOR
R A BRIGGS OF SOME OTHER SUITABLE QUALIFIED OFFICER TO ACT AS
PROSECUTING OFFICER AT TRIAL BE DCM OF BOYCE STOP PLEASE ADVISE
IF MAJOR BRIGGE WILL BE AVAILABLE

4421

CFN A 5

4 65 B 3592 JAG E 17NOV49 29668 BOYCE BRIGGS

21/2023Z NOVEMBER JCOC

(2)

D admin:-
Pls advise Comd

(W. M. W. Shaw)
Lt. Col.
DJAG
WMWS
NOV 22 1949

(16)

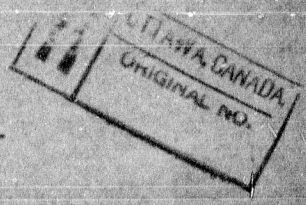
H.Q. C.85-B-5698 (JAG/E)

THE OFFICE OF THE JUDGE ADVOCATE-GENERAL

CONFIDENTIAL

November 17, 1949.

Assistant Judge Advocate,General,
Headquarters Central Command,
Ortona Barracks,
OAKVILLE,
Ontario.



APPLICATION FOR DISTRICT COURT-MARTIAL
SC E9668 CPL BOYCE R A F

Pursuant to our telephone conversation this morning, I enclose herewith a copy of my letter of the 10th. November to the Commander, Eastern Ontario Area, together with a copy of the new Summary of Evidence taken by Major Briggs, for your information.

2. I understand from you that, in the circumstances, the appropriate Army authority may decide to dispense with a Court-Martial and refer the matter back to the Commanding Officer, to be dealt with summarily. There is no legal objection to such action, subject, of course, to the right of the accused to elect trial by a Court-Martial.

(S.L.Howell) Squadron Leader,
for Judge Advocate-General.

SLH/YC

16

OTTAWA, CANADA
ORIGINAL NO.
172

H.Q. C. 55-B-3592
(JAG/E)

THE OFFICE OF THE JUDGE ADVOCATE GENERAL

Ottawa, November 10, 9

CONFIDENTIAL

Commander, Eastern Ontario Area,
King Street West,
Kingston, Ont.

APPLICATION FOR DISTRICT COURT-MARTIAL
SC 29668 CPL BOYCE R A F

I have reviewed the new Summary of Evidence taken by Major R.A. Briggs of AHQ and have the following comments to make :

2. With respect to the first six Charges, as there is still no evidence connecting the accused with the uttering of the forged Bank Certificates, in my opinion there is insufficient evidence to warrant trial on these charges and they should be deleted from the Charge Sheet.

3. With respect to the Seventh Charge, the same comments will apply, as there is no evidence that the accused was the person who altered the Bank Certificate.

4. With respect to the Eighth Charge, in view of the manner in which the proceeds of Canteen sales were handled, it is apparently not possible to prove that the accused actually received the monies in question so that, in my opinion, there is insufficient evidence to warrant trial on this Charge and it should be deleted from the Charge Sheet.

5. With respect to the Ninth Charge to the Twenty-Second Charge inclusive, I am of the opinion that there is sufficient evidence to warrant trial on these Charges. With respect however, to the even-numbered Charges which deal with entering incorrect figures for disbursements in the Canteen Financial Statement, it should be noted that there is no viva voce evidence in the Summary, the only evidence being Appendix "A" to Exhibit "W". Viva voce evidence as to the actual amount of Canteen disbursements for each month will have to be given at the trial and there should be no difficulty in proving this by the cancelled cheques and Bank statements for the Canteen Bank account.

6. I attach a suggested redraft of the Ninth and Tenth Charges which will now be renumbered as the First and Second Charges and the Eleventh and subsequent Charges should be redrafted and renumbered accordingly.

7. The Summaries of Evidence, Exhibits and Charge Sheet are returned herewith.

(S.L.Howell) Squadron Leader
for Judge Advocate-General.

Copy to : Major Briggs.

(15)

CHARGE SHEET

The accused, No. SC-29668 Corporal Reginald Albert Frank Boyce, Royal Canadian Army Medical Corps, Kingston Military Hospital, a soldier of the Canadian Army (Active Force) is charged with :

FIRST CHARGE IN A DOCUMENT SIGNED BY HIM, KNOWINGLY MAKING A FALSE STATEMENT
Sec.25 (1) (a) Army Act

in that he

at KINGSTON, Ontario, on or about 1st November,1948, in his capacity as Secretary Treasurer and Bookkeeper of the Men's Canteen, Kingston Military Hospital, entered in the Financial Statement of the said Canteen for the month of October 1948, the sum of $755.20 as Cash in Bank, well knowing the said entry to be false.

SECOND CHARGE IN A DOCUMENT SIGNED BY HIM, KNOWINGLY MAKING A FALSE STATEMENT
Sec.25(1) (a) Army Act

in that he

at KINGSTON, Ontario, on or about 1st. November, 1948, in his capacity as Secretary-Treasurer and Bookkeeper of the Men's Canteen, Kingston Military Hospital, entered in the Financial Statement of the said Canteen for the month of October 1948, the sum of $1795.71 as Total Disbursements, well knowing the said entry to be false.

(14)

H.Q. C.35-2-3098

THE OFFICE OF THE JUDGE ADVOCATE-GENERAL

Ottawa, September 17, 9

OTTAWA, CANADA
ORIGINAL NO.
JAG
93

CONFIDENTIAL

Commander, Eastern Ontario Area,
King Street West,
Kingston, Ont.

APPLICATION FOR DISTRICT COURT-MARTIAL
SC 20100 CPL BOYCE R A F

I have again reviewed the Summary of Evidence and Charge Sheet forwarded with Central Command letter to me dated the 30th. August, 1949. My Message 2698 dated the 6th. September to Central Command covers the matter of employment of Brigadier Cunningham as defence counsel and also advises that a legallyqualified Officer from this Headquarters will be made available as prosecutor. No Judge Advocate of the rank of Lieutenant Colonel or above is available and I can see no reason why the usual arrangements regarding a Judge Advocate should not apply in this case.

2. With regard to the Charge Sheet and Summary of Evidence, although the Charge Sheet has been amended, some of the defects pointed out in my letter of the 9th. August to Headquarters Central Command have not been remedied and apparently no attempt has been made to take additional Summary of Evidence.

3. With regard to Charges 1 to 6 inclusive, the evidence should establish:

(a) That the accused was Secretary Treasurer and bookkeeper of the canteen on the relevant dates. The Summary of Evidence contains no satisfactory evidence on this point and a witness should be called who can prove this.

(b) The date and circumstances of the uttering of the forged Bank Certificates. There is no evidence as to this and the person or persons to whom the accused uttered these documents must be called to prove these facts. In this connection also I do not consider that Capt Flint can produce the Bank Certificates and in my opinion they must be produced by the person to whom they were uttered by the accused.

(c) That the signatures on the Bank Certificates were forged. In this connection the evidence of Moore is probably sufficient but, as I previously stated, Townley should probably be called to prove that the signature " B Conley " is not his.

(d) A competent employee of the Bank should also be called to prove what the actual balances were, as this goes to the intent to defraud, and in my opinion the [illegible] statements alone are not sufficient proof.

15

4. As to Charge 7, the same comments will apply and, in addition, Swallows should prove the amount of the correct balance which he entered on the Bank Certificates.

5. I would also point out that in redrafting the Charge Sheet for Charges 1 to 6 inclusive, you have omitted to change the statement of the offence to the singular i.e." uttering a forged document." I would also suggest that the statement of the particulars of the offences should read in part as follows " ..... uttering a certain forged document purporting to be a Bank Certificate issued by the Kingston Ontario Branch of the Bank of Toronto and to be signed by —— and to show a credit balance of $ in favour of the said Canteen as on (date), knowing the same to be forged and with intent to defraud ".

6. In my opinion, if Charges 8 to 22 inclusive are to be proceeded with, it will be necessary to take an additional Summary of Evidence and in view of the consequent further delay and the delay which has already elapsed, also the practical difficulty of trying so many charges at the same time, it might be advisable to proceed at this time only with Charges 1 to 6 inclusive. I have had an opportunity to discuss the case at some length with the AJAG, Central Command and the AJAG, Training Command, Trenton, both of whom were here this week for the JAG conference and both of whom are in agreement with this suggestion. If, however, this suggestion is not followed, the following comments will apply to the remainder of the Charges.

7. As to the 8th. Charge, the previous charge of embezzlement has evidently been deleted because of lack of proof that the accused actually received the monies in question. I would point out, however, that the same difficulty applies to the present 8th. Charge as there is no direct evidence in the Summary that the accused actually received and failed to account for these monies. This will have to be proved by production of the actual ledgers, vouchers, cheques, etc. and any conclusions of the auditor, Capt. Flint would be admissible only if the supporting data is proved first and he is qualified as an expert witness. I also do not understand where the figure of $3,863.09 was obtained as the shortage according to Page 1 of Exhibit "W" is stated to be $2561.39.

8. As to Charges 9 to 22, following additional evidence must be obtained :

(a) Proof of the signature of the accused on the financial statements.

(b) Proof that the financial statements were submitted by the accused

(c) Proof of the actual amount of the cash in Bank and disbursements.

9. If Charge 8 is to be proceeded with, I would suggest that the particulars of the offence should cover the period to the 30th. June, 1949, if the accused was actually in charge until that date and that the words " approximately " be deleted.

10. With reference to draft Charges 9 to 22 inclusive, I would again point out that the statement of the offence must include the words " IN A DOCUMENT SIGNED BY HIM " also in the particulars of these Charges, there should be added after " the Financial Statement " the words " of said Canteen ".

11. If it is decided to proceed with

.....

all the charges, I would suggest that consideration be given to preparing separate charge sheets under NPGR.

12. Copies of this letter are being sent as indicated below.

13. The Summary of Evidence and Charge Sheet are returned herewith.

for (Wm W. Shaw) Lt-Colonel
Judge Advocate General.

SLW/TG

Copies to : Assistant Judge Advocate General,
Headquarters, Central Command,
Ortona Barracks,
Oakville, Ont.

Assistant Judge Advocate General,
R.C.A.F. Training Command Headquarters
Trenton, Ont.

DEPARTMENT OF NATIONAL DEFENCE
MESSAGE FORM
FOR UNCLASSIFIED MESSAGES ONLY

INDICATE DEGREE OF PRIORITY

FOR MESSAGE CENTRE USE ONLY

OPERATIONAL IMMEDIATE		GR
PRIORITY		
ROUTINE	X	
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FROM JUDGE ADVOCATE GENERAL OTTAWA

ACTION ADDRESSEE/S ARMY OAKVILLE (FOR AJAG)

INFORMATION ADDRESSEE/S

UNCLAS X

ORIGINATOR'S NO. 2682

REFERENCE SC 29668 CORPORAL BOYCE RAF EASTERN ONTARIO AREA STOP CHARGE SHEET AND SUMMARY OF EVIDENCE BEING RETURNED FOR ALL THE CORRECTIVE ACTION SUGGESTED IN MY PREVIOUS LETTER STOP THIS OFFICE PREPARED TO APPROVE EMPLOYMENT OF BRIGADIER CUNNINGHAM AS DEFENCE COUNSEL STOP EMPLOYMENT OF COUNSEL FOR PROSECUTION NOT APPROVED STOP IF LEGALLY QUALIFIED OFFICER NOT AVAILABLE IN COMMAND, A QUALIFIED OFFICER FROM THIS HEADQUARTERS WILL BE MADE AVAILABLE STOP

(10)

W.W. Shaw

ORIGINATOR (W.W.Shaw) Lt.-Col. for Judge Advocate General

TELEPHONE 4923

DATE - TIME GROUP 06 1950 Sept.1949 Z

FILE NO HQC 55-B-3512 (JAG/C)

FILE COPY

C.N.S. 1220J-150M-11-48(2893)
C.A.F.B. 5676(4 PARTS)-400M-11-48(1702)
H.Q. 224-21-E-1616.
R.C.A.F. 543-500M-11-48(3736)

IN REPLY PLEASE QUOTE No. CC/SC 29668 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

HEADQUARTERS CENTRAL COMMAND

Ortona Barracks,
OAKVILLE, Ontario.

30 AUG 49

Reference: JAG
SEP 1 1949
File No. C55-B-359.2
Chgd to

Headquarters,
Department of National Defence,
OTTAWA, Ontario.

DISTRICT COURT-MARTIAL
SC 29668 CPL BOYCE, REGINALD ALBERT FRANK
RCAMC

Further to this Headquarters CCJA 10, dated 19 Aug 49.

2 Enclosed herewith Summary of Evidence, Charge Sheet and exhibits, together with statement by the Paymaster of Kingston Military Hospital regarding Cpl. Boyce's pay account and statement by Cpl. Boyce that he is financially unable to obtain civilian counsel at his own expense and undertaking to pay the Crown's costs involved as may be fixed by regulations approved by the Minister.

3 This Headquarters recommends Cpl. Boyce should pay 15% of the expenses involved in employment of civilian defence counsel on his behalf.

4 Headquarters, Eastern Ontario Area advises that TC 3163 Captain H F Gibson, Barrister, etc., Headquarters, Canadian Infantry Brigade, is prepared to act as Prosecutor if tariff rates of Appx "A" to CAO 62-5, para 5 will apply.

5 May your decision be communicated to this Headquarters as quickly as possible.

Enc

(C Vokes) Major-General
G.O.C., Central Command

9

NAT. DEF. B. 440
2000M—7-43 (931)
H.Q. 1772-39-767

STATEMENT BY SC 29668 CPL BOYCE, REGINALD ALBERT FRANK, RCAMC

I certify that I am not financially able to employ civilian counsel at my own expense and, in the event I am able to obtain civilian counsel under the provisions of CAO 62-5, I undertake to repay the Crown such part, if any, of the costs involved as may be fixed by regulations approved by the Minister.

R. A. Frank Boyce
SC 29668 Cpl Boyce, R A F

KINGSTON ONT
19 Aug 49

Witnessed
[illegible]
19 Aug 49

28

CANADA

IN REPLY PLEASE QUOTE
No.

DEPARTMENT OF NATIONAL DEFENCE
ARMY

Kingston Ontario, 19 August 49

Memo to D.A.G.

I have examined the pay book of SC29668 Cpl. Boyce R.A.F. and the balance($22.21) is insufficient to employ a civilian barrister.

Capt.
for(J R Wilson) Paymaster,
Kingston Military Hospital.

(7)
30

N.D. 23
1000M—9-45 (8017)
H.Q. 1772-101-23

MEMO

TO: J.A.G

Ref - Telegram hereunder

It is understood that the necessary information as per CAO,62-5 is being forwarded to you - However if it is received at this Branch it will be passed for your consideration -

2. If a legally qualified prosecutor is requested from this Branch - Major R. Briggs will be made available

3. may this Branch be informed when a decision has been reached, pls

for D Adam
F.L.
23-8-49

(6)

CIPHER MESSAGE

ARMY MESSAGE

(INCOMING)

CLASSIFIED

CONFIDENTIAL

PLACE FROM OAKVILLE ONT

DATE & TIME 19 AUG 49

Mary Lavanger
Please discuss with JAG
and arrange details
JCL

******** R I T Y *******

J. A. HUTCHINSON
LT-COL.

AUG 22 1949

DIRECTORATE OF ADMINISTRATION
ARMY
AUG 22 1949
OTTAWA
CANADA

FROM ARMY OAKVILLE

TO A G (ACTION)

I

CCJA 10 CONFIDENTIAL

SC 29668 CPL BOYCE REGINALD ALBERT FRANK RCAMC KINGSTON MILITARY HOSPITAL IS THE SUBJECT OF 22 CHARGES TO BE TRIED BY DCM. THERE ARE 6 CHARGES UNDER AA41 OF FORGERY AND UTTERING, 1 CHARGE UNDER AA25 (2) OF ALTERING A DOCUMENT, 15 CHARGES UNDER AA25(1) OF FALSYFYING DOCUMENTS. CHARGES ARE OF A SERIOUS NATURE AND CASE PRESENTS POINTS OF LEGAL DIFFICULTY. ACCUSED HAS REQUESTED BRIG D G CUNNINGHAM BARRISTER, KINGSTON TO BE APPOINTED AS DEFENCE COUNSEL UNDER PROVISIONS OF CAO 62-5. EASTERN ONTARIO AREA REQUESTS APPOINTMENT OF CIVILIAN COUNSEL TO APPEAR ON BEHALF OF THE PROSECUTION AND THAT A JUDGE-ADVOCATE OF AT LEAST A LIEUT-COLONEL IN RANK BE APPOINTED FOR THE TRIAL. THIS HEADQUARTERS RECOMMENDS THE APPOINTMENT OF CIVILIAN COUNSEL FOR BOTH PROSECUTION AND DEFENCE. COPY OF APPROVED CHARGES, SUMMARY OF EVIDENCE, STATEMENT BY ACCUSED REGARDING HIS FINANCIAL INABILITY TO EMPLOY CIVILIAN COUNSEL AT HIS OWN EXPENSE, STATEMENT SETTING FORTH PAY ACCOUNT OF ACCUSED TOGETHER WITH RECOMMENDATION REQUIRED BY CAO 62-5., PARA 2 (E) WILL BE FORWARDED EARLIEST.

30398/PEH/201300Z/AUGUST 1949.

NOTE: THIS MESSAGE HAS BEEN DISPATCHED IN CIPHER AND MUST NOT BE PUBLISHED OR DISTRIBUTED OUTSIDE GOVERNMENT DEPARTMENTS OR HEADQUARTERS OR RETRANSMITTED WITHOUT BEING PARAPHRASED.

F.B. 338 (4 PARTS)
-5-49 (2262)
21-B-338

COPY 2

R. L. CRAIN LIMITED

H.Q. C. 88-

XXXXX
THE OFFICE OF THE JUDGE ADVOCATE-GENERAL

Ottawa, August 9, 9

CONFIDENTIAL

Headquarters, Central Command,
Ortona Barracks,
OAKVILLE, Ont.

R OTTAWA, CANADA ORIGINAL NO.

APPLICATION FOR DISTRICT COURT-MARTIAL
SC 29668 CPL BOYCE R A F

Re: Your CC/SC 29668 (J)

1. As requested, I have reviewed the Charge Sheet and Summary of Evidence and have the following comments to make:-

2. In addition to omitting the place where the offences are alleged to have taken place, the first and second charges are defective in that they omit in the statement of the offence after the words " a civil offence " the words " that is to say "; also the words " contrary to Section 6 (1) of the Forgery Act 1913 ". Also unless the three bank certificates were uttered at the same time, which I am unable to determine from the Summary of Evidence, the uttering of each bank certificate should be charged separately. I also doubt whether the bank certificates are sufficiently identified in the particulars of the charges. Sufficient evidence is disclosed to warrant trial on the circumstances disclosed by the first and second charges although possibly the bank employee named Townley should be called to prove that the certificates mentioned in the second charge were not signed by him.

3. I concur that the additional charge referred to in paragraph 2 (a) of Eastern Area letter should be added.

4. With regard to the third charge, I consider that this charge should stand if evidence is available that the accused actually received and failed to account for such monies, but I doubt whether Exhibit " W" which the 3rd witness says he compiled from the Canteen books and ledgers, is sufficient proof. I would think also that the amount charged in this and the fourth charge should be the total shortage of $2581.39 shown in Exhibit "W". Consideration should also be given to framing this charge under AA Sec.17.

5. With regard to the fourth charge, the same comments will apply and it would appear that the particulars should be worded " so as to be unable to account for $1772.96 thereof ".

6. The Fifth charge seems to be a duplication of the fourth charge and I can find no separate evidence or figures to support it.

7. With regard to charges Sixth to Twelve inclusive, I consider that unless they are complementary (which does not appear to be the case) the averments as to cash in each figures and accounts paid, figures should in each case be the subject of a separate charge. I also do not understand why the show the figures for accounts paid or where these figures were obtained as the figures shown in the Summary of Evidence are accounts payable and it would appear that the charges should

framed accordingly. I would also point out that these charges do not contain a complete statement of the offence as they have omitted the words " In a report etc signed by him ". With the suggested amendments there appears to be sufficient evidence to warrant trial on the last seven charges. You might also consider whether the 3rd witness, Capt. Flint, is the proper person to produce all of the documentary evidence, or whether some or all of this evidence should not be produced by some other person, e. g. Sgt. Ames, or the President of the Canteen or of the Unit Audit Board.

9. The Summary of Evidence and Charge Sheet are returned herewith.

SLH/YC

(S.L.Howell) Squadron Leader,
for Judge Advocate-General.

(3)

IN REPLY PLEASE QUOTE No. CC/SC 29668 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Central Command,
Ortona Barracks,
OAKVILLE, Ont.
28 JUL 49

J.A.G.
ADC 2 1949
File No. 6 55-B-3592
Chgd to

Office of the Judge Advocate General
Dept. of National Defence
OTTAWA Ont.

APPLICATION FOR DISTRICT COURT-MARTIAL
SC 29668 CPL BOYCE R A F

1 Pursuant to KR (Can) 540, enclosed herewith find one copy of the Charge Sheet, one copy of the Summary of Evidence and letter from Headquarters, Eastern Ontario Area, under file no. K/SC 29668 (ADM B) dated 27 JUL 49, which is self-explanatory.

2 It is the opinion of this Headquarters that the charge mentioned in para 2(a) of the above-referred to letter should be included in the charges against the marginally-noted NCO. It is further the opinion of this Headquarters that the proposed third charge (Embezzlement) should be allowed to stand.

3 May your instructions regarding an Order for Trial in this case be received as quickly as possible.

for J C H Campbell Major
(C. Vokes) Major-General
G.O.C., Central Command

(2)

NAT. DEF. B. 440
2000M - 7-43 (835)
H.Q. 1772-39-767

IN REPLY PLEASE QUOTE
No. K/SC 29668(ADM

CANADA

DEPARTMENT OF NATIONAL DEFENCE
ARMY

KINGSTON ONT 27 JUL 49 194

Headquarters
Central Command
Ortona Barracks
OAKVILLE Ont

SC 29668 CPL BOYCE R A F
SUMMARY OF EVIDENCE

1 Herewith submitted one copy of a Charge Sheet and one copy of a Summary of Evidence in the case of the marginally noted NCO. Concurrently with the Summary of Evidence a Court of Inquiry is being held which is going into further ramifications of the same case, especially the responsibility of those officers whose duty it was to supervise the work of Cpl Boyce.

2 The following remarks are submitted in relation to the charges:-

(a) There is evidence in this Summary for the preferring of a further charge under Section 25 Sub-section 2 of the Army Act. This charge is based on the document, Exhibit "F", and on the testimony of Mr Swallow, and could be phrased somewhat as follows:-

"Knowingly and with intent to defraud altering a document which it was his duty to preserve, in that he, at Kingston, Ontario, on or about the 1st February 1949, when as Secretary-Treasurer and Bookkeeper of the Men's Canteen, Kingston Military Hospital, had charge of a document, that is to say, a bank certificate of the Bank of Toronto, Kingston Branch, dated 31st January, 1949, with intent to defraud, altered the genuine credit figure on this document and changed it to $ 879.59."

(b) There seems to be a lot of circumstantial evidence to support the third charge (Embezzlement) but it is not quite certain whether or not the evidence as it stands now will prove sufficient. It might be better to drop the third charge altogether and consolidate the fourth and fifth charges into one. In that case, the charge under Section 40 of the Army Act would allege that the accused so negligently handled the affairs of the Canteen that he allowed a shortage of $ 3863. 09 to accrue.

(c) It will be necessary to insert into all the charges allegations where the offences were committed and that the accused committed them as Secretary-Treasurer and Bookkeeper of the Men's Canteen.

3 The Charge Sheet has not been re-written by this Headquarters to conform with the above remarks under 2 (a), (b) and (c) because it was thought more expedient to embody these changes

...../tumble

1

M.F.B. 239
H.Q. 1772-30-134

after your Headquarters and the Judge Advocate-General have had an opportunity to pass further opinions upon the evidence and the charges.

J.G. Walsh

(J.G. Walsh) Brigadier
Commander
Eastern Ontario Area

Telephone 4421 L 26

H.Q.C. 55-B-3593 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

GENERAL COURT MARTIAL -

BROUSSEAU, WILFRID EMILE XC.110 LIEUT.

CONFIDENTIAL
H.Q.C. 55-B-3593

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
				(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")			
				DM		CR	15-9-49
				D.A.		E	17/9
				DM		2	20/9
				CR	With f.d. 1	Gen	27/9
OCT 3 1949	15			D Admin			
OCT 20 1949	3 11/49	BF	Eff	Admin B	PER BF CR OCT 15 1949		
				JAG	WITH PAPERS CR OCT 29 1949		
NOV 2 1949	2 11/49	PA	Eff.	D Admin	To note & PA	[illegible]	1 11/49
NOV 4 1949	3 11/49	PA	Eff.	Admin B	PER B.F. NOV 3 1949		
NOV 26 1949	25 11/49	PA	Eff.	D/Admin	PER REQUEST CR NOV 9 1949		
				Admin B1	PER REQUISITION CR DEC - 6 1949		
				DM	Submission pls	[illegible]	30 Dec 49
				AG		M.M.	30/12/49
				Admin		[illegible]	3 Jan 50
JAN 11 1950	10 Jan 49	PA	[illegible]	Maj Cameron		[illegible]	[illegible]
				Admin B2 Pers Orders Section	PER REQUISITION CR MAR 30 1950 To publish CAO	Eff.	30/3/50
APR 4 1950	17/50	PA	Eff.	D Admin B	Orders Action taken	[illegible]	3 4/50

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to S.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other officers an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

In reply quote No. HQC 55-B-3593 (Adm B2)

DEPARTMENT OF NATIONAL DEFENCE
ARMY
INTER-OFFICE CORRESPONDENCE

CANADA

DIRECTORATE OF ADMINISTRATION
ARMY
APR 3 1950
OTTAWA
CANADA

30 Mar, 50.

TO: D.A.G.

ZC 110 Lieut W.E. BROUSSEAU

One folio hereunder please find draft CAO dealing with the sentence of a GCM which was confirmed by the Governor General in Council on 23 Sep 49 and promulgated to the accused Lieut W.E. Brousseau on 13 Oct 49.

2. If you concur in the draft CAO would you sign same in the place provided for your signature and repass the file for the further necessary action.

(J.A. Hutchins),
Lt-Colonel,
Director of Administration.

M.F.A. 1325
1.800M—5-43 (9990)
H.Q. 1772-39-2009

CANADIAN ARMY ORDER

SENTENCE OF A GENERAL COURT MARTIAL

ZC 110 LIEUTENANT WILFRID EMILE BROUSSEAU, Royal Canadian School of Infantry, Camp Borden, Ontario, an officer of the Canadian Army (Active Force) was tried by General Court Martial held at Camp Borden, Ontario on the 30th day of August, 1949 on one charge under Section 15(1) of the Army Act relating to absence without leave.

Lieut W.E. Brousseau pleaded not guilty to the charge of absence without leave, was found guilty on the charge of absence without leave and was sentenced to be severely reprimanded.

The finding and sentence having been duly confirmed by the Governor General in Council, the charge, finding and sentence were duly promulgated on the 13th day of October, 1949.

(HQC 55-B-3593)(D, Adm)1

Recommended:

(J.A. Hutchins),
Lt-Colonel,
Director of Administration

Approved:

(W.H.S. Macklin),
Major-General,
Adjutant-General.

CANADIAN ARMY ORDER
62-2
173/50

HQC 55-B-3593 (Adm B1)

CONFIDENTIAL

10 Jan 50.

Headquarters,
Central Command,
Ortona Barracks,
OAKVILLE, Ont.

ZC 110 Lt W.E. Brousseau
Royal Canadian School of Infantry

1. Reference your C CC/ZC 110 (ADM A), dated 17 Dec 49 recommending a forfeiture of pay and allowances pursuant to P & A (Army) 280 (5) for the illegal absence from duty of ZC 110 Lt W.E. Brousseau, Royal Canadian School of Infantry.

2. The Deputy Minister has directed, pursuant to the provisions of P & A (Army) 280 (5), a forfeiture of the pay and allowances of ZC 110 Lt W.E. Brousseau for six (6) days of the period of his illegal absence.

W.H.S. Macklin, Major
for (W.H.S. Macklin)
Major-General
Adjutant-General

JRC:5896:DBV

DIRECTORATE OF ADMINISTRATION
ARMY
DEC 3 1950
OTTAWA CANADA

Memorandum

To: Deputy Minister

Department of National Defence
H.Q. C 55-B-3593 (Adm)
OTTAWA, 30 Dec 49

ZC 110 Lieutenant W.E. BROUSSEAU
The Royal Canadian School of Infantry

The purpose of this memorandum is to secure authorization for effecting a forfeiture of the pay and allowances of ZC 110 Lt W.E. Brousseau, pursuant to the terms of P & A (Army) 280(5), for the period of an illegal absence, (6 days, 5 hours), from duty with the Canadian Army Active Force.

2. P & A (Army) 280(5) provides that where an officer has been illegally absent or suspended from duty, on completion of disciplinary action following upon termination of the period of illegal absence or suspension from duty, the Minister may order that the officer's pay and allowances shall be forfeited for all or any specific days of illegal absence or suspension from duty, and give such direction as may be necessary to implement his decision.

3. The facts of the case are briefly:

(a) ZC 110 Lt W.E. Brousseau, The Royal Canadian School of Infantry, having been charged with an offence under Army Act Section 15(1), in that he absented himself without leave from 0900 hours, 2 Aug 49 to 1400 hours, 8 Aug 49 (time absent 6 days, 5 hours), was tried by General Court Martial at Camp Borden, Ontario on 30 Aug 49.

APPROVED
Deputy Minister
of National Defence
DEC 30 1949

(b) ZC 110 Lt W.E. Brousseau pleaded NOT guilty, was found guilty by the Court as charged, and awarded a severe reprimand. The findings and sentence of the Court were confirmed by His Excellency the Governor General in Council on 23 Sep 49.

(c) ZC 110 Lt W.E. Brousseau was not suspended from duty while awaiting court martial.

4. The Temporary Commanding Officer, The Royal Canadian School of Infantry, recommends forfeiture of pay for the period of illegal absence, (6 days, 5 hours).

5. The General Officer Commanding, Central Command, recommends forfeiture of pay for 6 days only.

6. This Branch concurs in the recommendation of the General Officer Commanding, Central Command.

7. It is recommended, therefore, for your approval pursuant to P & A (Army) 280(5), that ZC 110 Lt W.E. Brousseau forfeit pay and allowances for 6 days of the period of his illegal absence.

(W.H.S. Macklin), Lt Col
Major-General,
Adjutant-General.

JRC/5896/TC
copy for HQC ZC 110

N.D. 25a
60M—7-40 (6103-4)
H.Q. 1772-101-25

IN REPLY PLEASE QUOTE NO. C CC/ZC 110 (AIM A)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Ortona Barracks,
OAKVILLE, Ont.

17 DEC 49

CONFIDENTIAL

DEPARTMENT OF ADMINISTRATION
ARMY
DEC 21 1949
OTTAWA
CANADA

Referred to Personnel
DEC 20 1949
File No
Copy to

Army Headquarters,
Department of National Defence,
OTTAWA, Ontario.

ZC.110 Lt W E BROUSSEAU
RCS of I

Your AIM 1488 dated 24 Nov 49.

2 Enclosed herewith in triplicate is MFM 324 forwarded as requested in above referenced message.

(C. Vokes)
Major-General
GOC Central Command

AD 4085
Local 32

RECEIVED
DEC 21 1949
Pers Registry

NAT. DEF. B. 445

REPORT ON OFFICER SUSPENDED FROM DUTY OR ABSENT WITHOUT LEAVE

ART. 87, F.R. & I., FOR THE C.A.S.F. (CANADA)

(To be disposed of as directed in C.A.R.O. No. 3484)

PART I

TO BE COMPLETED BY COMMANDING OFFICER OF UNIT OR FORMATION

RANK AND NAME ZC.110 Lieut W.E. BROUSSEAU

UNIT The Royal Canadian School of Infantry

PARTICULARS OF CHARGE(S).	AA Sec 15(1)AA AWL from 0900 hrs 2 AUG 49 to 1400 hrs 8 AUG 49 (6 dys 5 hrs)
HOW DISPOSED OF. C.O., Sup. Auth., C.M. or Civil Ct.	General Court Martial
FINDING.	Guilty
SENTENCE.	Severe Reprimand
DATE OF PROMULGATION.	
Period during which suspended from duty and/or absent without leave. If not suspended from duty, so state.	NOT suspended from duty.
REMARKS— (To include recommendation *re* forfeiture of pay for period of suspension or absence without leave).	Forfeiture of pay under Para 280(5) P&A (Army) for the period of AWL only (6 dys 5 hrs)

Date 7 DEC 49

(N.M. GEMMELL) Lt. Col, T/Comd O.C.
The Royal Cdn School of Infantry Unit

M.F.M. 324
10M-7-43 (1096)
H.Q. 1772-39-2068

PART II

TO BE COMPLETED BY PAYMASTER OF UNIT OR FORMATION

The following information is furnished in connection with the provisions of Article 280(5) F. & A Regs

Rate of pay in issue ..... $ 196.00 month

Amount of monthly assignment to dependent in receipt of dependents' allowance $ N/A

Amount of 15 days' assigned pay (maximum amount per month which may be re-credited under Article 87 (11) F.R. & I. (Canada)). (Not applicable for periods of absence without leave, unless specially directed) ..... $ N/A

DATE 14 December 1949

(J.A Ranauld) Captain Paymaster
RCS of I Unit

PART III

Recommendation of G.O.C. in C., G.O.C., D.O.C. or Commander

Pay under Para 280 (5) P&A (ARMY) FOR 6 DAYS BE FORFEITED

DATE 17 DEC 49

(C. Vokes) Maj-General GOC Central Command
Name Rank Appointment

PART IV

Direction of the competent authority as to forfeiture of pay and allowances for the period the officer named on the reverse side hereof was suspended from duty or absent without leave, as shown.

DATE

REPORT ON OFFICER SUSPENDED FROM DUTY OR ABSENT WITHOUT LEAVE

ART. 87, F.R. & I., FOR THE C.A.S.F. (CANADA)

(To be disposed of as directed in C.A.R.O. No. 3484)

PART I

TO BE COMPLETED BY COMMANDING OFFICER OF UNIT OR FORMATION

RANK AND NAME ZC.110 Lieut N.E. BROUSSEAU

UNIT The Royal Canadian School of Infantry

PARTICULARS OF CHARGE(s).	AA Sec 15(1)AA AWL from 0900 hrs 2 AUG 49 to 1400 hrs 8 AUG 49 (6 dys 5 hrs)
HOW DISPOSED OF. C.O., Sup. Auth., C.M. or Civil Ct.	General Court Martial
FINDING.	Guilty
SENTENCE.	Severe Reprimand
DATE OF PROMULGATION.	
Period during which suspended from duty and/or absent without leave. If not suspended from duty, so state.	NOT suspended from duty.
REMARKS— (To include recommendation *re* forfeiture of pay for period of suspension or absence without leave).	Forfeiture of pay under Para 280(5) P&A (Army) for the period of AWL only (6 dys 5 hrs)

Date 7 DEC 49

M.F.M. 324
10M-7-43 (1096)
H.Q. 1772-39-2068

(N.N. UPENNELL) Lt. Col, T/Comd O.C.
The Royal Cdn School of Infantry. Unit

PART II

TO BE COMPLETED BY PAYMASTER OF UNIT OR FORMATION

The following information is furnished in connection with the provisions of Article 280(5) P. & A. Regs

Rate of pay in issue ..... $ 196.00 a month

Amount of monthly assignment to dependent in receipt of dependents' allowance $ N/A

Amount of 15 days' assigned pay (maximum amount per month which may be re-credited under Article 87 (11) F.R. & I. (Canada)). (Not applicable for periods of absence without leave, unless specially directed) ..... $ N/A

DATE 14 December 1949

(J. Schmidt) Captain Paymaster
RCS or I Unit

PART III

Recommendation of G.O.C. in C., G.O.C., D.O.C. or Commander

Pay under Para 280 (5) P&A (ARMY) FOR 6 DAYS BE FORFEITED

DATE 17 DEC 49

(C. Vokes) Maj-General GOC Central Command
Name Rank Appointment

PART IV

Direction of the competent authority as to forfeiture of pay and allowances for the period the officer named on the reverse side hereof was suspended from duty or absent without leave, as shown.

DATE

REPORT ON OFFICER SUSPENDED FROM DUTY OR ABSENT WITHOUT LEAVE

ART. 87, F.R. & I., FOR THE C.A.S.F. (CANADA)

(To be disposed of as directed in C.A.R.O. No. 3484)

PART I

TO BE COMPLETED BY COMMANDING OFFICER OF UNIT OR FORMATION

RANK AND NAME ZC.110 Lieut W.E. BROUSSEAU

UNIT The Royal Canadian School of Infantry

PARTICULARS OF CHARGE(S).	AA Sec 15(1)AA AWL from 0900 hrs 2 AUG 49 to 1400 hrs 8 AUG 49 (6 dys 5 hrs)
HOW DISPOSED OF. C.O., Sup. Auth., C.M. or Civil Ct.	General Court Martial
FINDING.	Guilty
SENTENCE.	Severe Reprimand
DATE OF PROMULGATION.	
Period during which suspended from duty and/or absent without leave. If not suspended from duty, so state.	NOT suspended from duty.
REMARKS— (To include recommendation *re* forfeiture of pay for period of suspension or absence without leave).	Forfeiture of pay under Para 280(5) P&A (Army) for the period of AWL only (6 dys 5 hrs)

Date 7 DEC 49

(N.M. GEMMELL) Lt. Col, T/Comd O.C.
The Royal Cdn School of Infantry. Unit

M.F.M. 324
10M-7-43 (1096)
H.Q. 1772-39-2068

PART II

To be Completed by Paymaster of Unit or Formation

The following information is furnished in connection with the provisions of Article 280(5) P. & A Regs ~~[illegible]~~

Rate of pay in issue ..... $ 196.00 a month

Amount of monthly assignment to dependent in receipt of dependents' allowance $ N/A

Amount of 15 days' assigned pay (maximum amount per month which may be re-credited under Article 87 (11) F.R. & I. (Canada)). (Not applicable for periods of absence without leave, unless specially directed) ..... $ N/A

Date 14 December 1949

(J. Renauld) Captain ..... Paymaster

RCS of I ..... Unit

PART III

Recommendation of G.O.C. in C., G.O.C., D.O.C. or Commander

Pay under Para 280 (5) P&A (ARMY) FOR 6 DAYS BE FORFEITED

Date 17 DEC 49

(C. Vokes) Maj-General GOC Central Command

Name Rank Appointment

PART IV

Direction of the competent authority as to forfeiture of pay and allowances for the period the officer named on the reverse side hereof was suspended from duty or absent without leave, as shown.

Date

REPORT ON OFFICER SUSPENDED FROM DUTY OR ABSENT WITHOUT LEAVE

ART. 87, F.R. & I., FOR THE C.A.S.F. (CANADA)

(To be disposed of as directed in C.A.R.O. No. 3484)

PART I

TO BE COMPLETED BY COMMANDING OFFICER OF UNIT OR FORMATION

RANK AND NAME ZC.110 Lieut W.E. BROUSSEAU

UNIT The Royal Canadian School of Infantry

PARTICULARS OF CHARGE(S).	AA Sec 15(1)AA AWL from 0900 hrs 2 AUG 49 to 1400 hrs 8 AUG 49 (6 dys 5 hrs)
How DISPOSED OF. C.O., Sup. Auth., C.M. or Civil Ct.	General Court Martial
FINDING.	Guilty
SENTENCE.	Severe Reprimand
DATE OF PROMULGATION.	
Period during which suspended from duty and/or absent without leave. If not suspended from duty, so state.	NOT suspended from duty.
REMARKS— (To include recommendation *re* forfeiture of pay for period of suspension or absence without leave).	Forfeiture of pay under Para 280(5) P&A (Army) for the period of AWL only (6 dys 5 hrs)

Date 7 DEC 49

W.E. Brousseau Lt Col O.C.
(N.M. GEMMELL) Lt. Col, T/Comd
The Royal Cdn School of Infantry. Unit

M.F.M. 324
10M-7-43 (1096)
H.Q. 1772-39-2005

PART II

TO BE COMPLETED BY PAYMASTER OF UNIT OR FORMATION

The following information is furnished in connection with the provisions of Article 280(5) F. & A Regs

Rate of pay in issue ..... $ 196.00 a month

Amount of monthly assignment to dependent in receipt of dependents' allowance $ N/A

Amount of 15 days' assigned pay (maximum amount per month which may be re-credited under Article 87 (11) F.R. & I. (Canada)). (Not applicable for periods of absence without leave, unless specially directed) ..... $ N/A

DATE 14 December 1949

(J.A Reinauld) Captain Paymaster
RCS of I
Unit

PART III

Recommendation of G.O.C. in C., G.O.C., D.O.C. or Commander

Pay under Para 280 (5) R&A (ARMY) FOR 6 DAYS IS APPROVED

DATE 17 DEC 49

(C. Vokes) Maj-General GOC Central Command
Name Rank Appointment

PART IV

Direction of the competent authority as to forfeiture of pay and allowances for the period the officer named on the reverse side hereof was suspended from duty or absent without leave, as shown.

DATE

CR:- Pls P.A. on personal file -J

H.Q. M.D. C.55-B-3503

MEMORANDUM - ~~DISTRICT~~ GENERAL COURT-MARTIAL

No. ZC 110 Name BROUSSEAU, Wilfrid Emile

Rank LIEUTENANT Unit Royal Canadian School of Infantry, Camp Borden

Charge AA 15(1) - ABSENTING HIMSELF WITHOUT LEAVE - from 0900 hrs 2 Aug 49 to 1400 hrs 8 Aug 49.

Date of Crime 2 August 1949

Date of Arrest Charge Signed 25 August 1949

Orders for D.C.M. 26 August 1949

Place and Date of Trial Camp Borden, Ontario, 30 August, 1949

Sentence SEVERE REPRIMAND

Date of Confirmation 23 September 1949

Date of Promulgation 13 October 1949

Entered in Records of J.A.G. as No. 47136

Date 31 October 1949

MEMO Accused found guilty of charge.

W M Shaw Lt Col

for Judge Advocate-General

DEPARTMENT OF NATIONAL DEFENCE
MESSAGE FORM
FOR CLASSIFIED MESSAGES ONLY

INDICATE DEGREE OF PRIORITY		FOR MESSAGE CENTRE USE ONLY	MARK X TO INDICATE SECURITY CLASSIFICATION	
			TOPSEC	
OPERATIONAL IMMEDIATE			SECRET	
PRIORITY			CONFID	X
ROUTINE	X	GR	RESTD	

IF NOT MARKED WILL BE TRANSMITTED DEFERRED	FROM	ARMY OTTAWA 24 Nov 49
	ACTION ADDRESSEE/S	ARMY OAKVILLE
	INFORMATION ADDRESSEE/S	

ORIGINATOR'S NO.
ADM 1488

REFERENCE YOUR A 2339 DATED 4 NOV 49 RELATING TO 2C 110 LIEUTENANT W E ROUSSEAU stop REQUEST THAT CAFB 1574 "REPORT OF OFFICER SUSPENDED FROM DUTY OR ABSENT WITHOUT LEAVE" BE COMPLETED AND FORWARDED THIS HEADQUARTERS stop ON RECEIPT OF CAFB 1574 DULY COMPLETED ACTION WILL BE TAKEN PURSUANT TO THE PROVISIONS OF P & A (ARMY) 280(5)

ORIGINATOR	TELEPHONE	DATE - TIME GROUP	FILE NO.
(WHS Macklin) Maj-Gen Adjutant-General	2891	24/NOV/1930 Z	HQC 55-B-3593 (Adm Bl(

C.N.S. 1320JC-50M-11-49 (2994)
C.A.F.B. 1617 (4 PARTS)-100M-11-48 (1703)
H.Q. 224-21-B-1617.
R.C.A.F. 542-355M-11-48 (5736)

ORIGINATOR'S COPY

CIPHER MESSAGE

ARMY MESSAGE

(INCOMING)

CLASSIFIED

37/22

PLACE FROM OAKVILLE, ONT.

DATE & TIME 222000 NOV 49

DIRECTORATE OF ADMINISTRATION ARMY NOV 24 1949 OTTAWA CANADA

FROM: ARMY OAKVILLE,

TO: XB D. PERS

INFO: ARMY BORDEN

RCIC

admin 23-11-49

A 8696 CONFIDENTIAL

RETEL A 2339 CONFIDENTIAL DATED 4 NOVEMBER 49 REFERS ZC 110 CIEUT W E BROUSSEAU.

REQUEST EARLY REPLY IN ORDER THAT PART II ORDER ACTION MAY BE TAKEN

30569/SP/1453Z NOVEMBER 1949

NOTE: THIS MESSAGE HAS BEEN DISPATCHED IN CIPHER AND MUST NOT BE PUBLISHED OR DISTRIBUTED OUTSIDE GOVERNMENT DEPARTMENTS OR HEADQUARTERS OR RETRANSMITTED WITHOUT BEING PARAPHRASED.

C.A.F.B. 338 (4 PARTS)
1586-5-49 (2262)
224-21-B-338

COPY 2

R. L. CRAIN LIMITED

CIPHER MESSAGE

ARMY MESSAGE

(INCOMING)

CLASSIFI

160/07

PLACE FROM — DATE & TIME

Draw File

B1a 9/11/49

OAKVILLE, ONT,., 041550Z NOV 49

FROM: ARMY OAKVILEE

TO: D ADM

DIRECTORATE OF ADMINISTRATION
ARMY
NOV 6 1949
OTTAWA
CANADA

A2339 CONFIDENTIAL

REFERS GCM ZC 110 LT W E BROUSSEAU RELET MQ C 55-B-3593 (ADM B1(B)) DATED 1 OCT 49.

REQUEST ACTION BE TAKEN TO IMPLEMENT THE PROVISIONS OF P&A ARMY PARA 280 (5).

RECOMMEND FORFEITURE OF PAY AND ALLOWANCES FOR PERIOD OF BROUSSEAU'S ABSENCE 0900 HRS 2 AUG TO 1400 HRS 8 AUG 49.

30191/CB/071843Z/NOV49.

NOTE: THIS MESSAGE HAS BEEN DISPATCHED IN CIPHER AND MUST NOT BE PUBLISHED OR DISTRIBUTED OUTSIDE GOVERNMENT DEPARTMENTS OR HEADQUARTERS OR RETRANSMITTED WITHOUT BEING PARAPHRASED.

C.A.F.B. 339 (4 PARTS)
10M-5-49 (2262)
224-21-B-338

COPY 2

R. L. CRAIN LIMITED

HQC 55-B-5593 (JAG/O)

xxxxx

THE OFFICE OF THE JUDGE ADVOCATE GENERAL

November 1st, 1949.

Headquarters,
Central Command,
Ortona Barracks,
OAKVILLE, Ontario.

DIRECTORATE OF ADMINISTRATION
ARMY
NOV 2 1949
OTTAWA
CANADA

General Court-Martial
ZC 110 Lt. W.E.Brosseau
RCS of I

Receipt is acknowledged of your CCC/ZC 110 (J) dated 26th October, 1949, enclosing proceedings of the marginally noted General Court Martial.

2. These proceedings were entered in our records as No. 47136 on 31st October, 1949.

WMWS

WMWS/ML
4923

(W.M.W. Shaw) Lt.-Col.
for Judge Advocate General.

Noted
E. Anniversett Capt
for 4 D. Adm
2 11/49
Local 9891

H.Q. C.55-B-3593
M.D.

MEMORANDUM - ~~DISTRICT~~ GENERAL COURT-MARTIAL

No. ZC 110 Name BROUSSEAU, Wilfrid Emile

Rank LIEUTENANT Unit Royal Canadian School of Infantry, Camp Borden

Charge AA 15(1) - ABSENTING HIMSELF WITHOUT LEAVE - from 0900 hrs 2 Aug 49 to 1400 hrs 8 Aug 49.

Date of Crime 2 August 1949

Date of Arrest Charge Signed 25 August 1949

Orders for D.C.M. 26 August 1949

Place and Date of Trial Camp Borden, Ontario, 30 August, 1949

Sentence SEVERE REPRIMAND

Date of Confirmation 23 September 1949

Date of Promulgation 13 October 1949

Entered in Records of J.A.G. as No. 47136

Date 31 October 1949

MEMO. Accused found guilty of charge.

W M W Shaw Col

for Judge Advocate-General

CCC/ZC 110 (J)

HEADQUARTERS CENTRAL COMMAND

Ortona Barracks,
OAKVILLE, Ontario.

..... REGISTERED

26 OCT 49

Referred to JAG
OCT 28 1949
File No. 55-B-3593
Chgd to

Office of the Judge Advocate General,
Dept. of National Defence,
OTTAWA, Ontario.

DISTRICT COURT -MARTIAL
ZC 110 Lt W.E. BROSSEAU
RCS of I

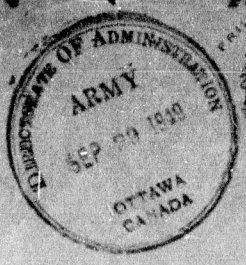
Herewith the marginally-noted ~~District~~ General Court-Martial proceedings, for registration and custody.

2 HQ C 55-B-3593 (Adm B1(b)) 1 Oct 49 refers.

Enc.

for (C. Vokes) Major General
G.O.C., Central Command

WH/4 P.C. 4378 NSC 55-B-3593 T.D.1 Admin





DIRECTORATE OF ADMINISTRATION ARMY SEP 29 1949 OTTAWA CANADA

PRIVY COUNCIL CANADA

C. R.
To register and pass to
D Admin
27-9

AT THE GOVERNMENT HOUSE AT OTTAWA

FRIDAY, the 23rd day of SEPTEMBER, 1949.

PRESENT:

Referred to D Admin
SEP 28 1949
File No C55-B-3593 TD

HIS EXCELLENCY

THE GOVERNOR GENERAL IN COUNCIL:

WHEREAS ZC 110 Lt. Wilfrid Emile Brousseau, Royal Canadian Infantry Corps, an Officer of the Canadian Army (Active Force) was tried by General Court Martial held at Camp Borden, Ontario, on the 30th day of August, 1949, on the following charge:

CHARGE
Sec 15(1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Camp Borden, Ontario, absented himself without leave from 0900 hours, 2 Aug 49 until 1400 hours, 8 Aug 49;

AND WHEREAS the accused officer pleaded not guilty, was found guilty and sentenced to be severely reprimanded;

AND WHEREAS the Judge Advocate General has certified that the proceedings are in order, the finding supported by the evidence and the sentence according to law;

AND WHEREAS the Adjutant General recommends that the findings and sentence of this Court be confirmed;

THEREFORE His Excellency the Governor General in Council, on the recommendation of the Minister of National Defence, is pleased to confirm the findings and sentence of the Court above set out and they are hereby confirmed accordingly.

A. A. Robertson

Clerk of the Privy Council

The Honourable
the Minister of National Defence

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

A

**Form of Proceedings for General [redacted] Courts-Martial

Proceedings of a General Court-Martial held at Camp Borden, Ont

on the 30th day of August 19 49 by order of Major-General C. Vokes, CB, CBE, DSO General Officer ~~Commanding~~ Central Command

dated the 26th day of August 1949.

President.

ZP 1446 Colonel D.K. Todd, DSO (GENERAL LI[illegible]
Headquarters Camp Borden

Members.

ZL 2096 Lt-Col J.L. Lapoint (RCASC)
The Royal Canadian Army Service Corps School

ZP 1340 Lt-Col W.R.I. Slack (RCAMC)
The Royal Canadian Army Medical Corps School

ZB 2291 Lt-Col C.B. Caswell, MC (RCAMC)
37 Field Ambulance Royal Canadian Army Medical Corps

ZD 831 Major G.R. Hale, DSO (RCAC)
The Royal Canadian Armoured Corps School

ZB 1052 Major J.C.A. Campbell, , Judge Advocate.
Office of the Judge Advocate General, att HQ Central Command.

Trial of* ZC 110 Lieutenant Wilfred Emile Brousseau, The Royal Canadian School of Infantry

The order convening the Court, the charge-sheet and the summary ([redacted]) 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.~~ JCC

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

The accused is brought before the Court.

Prosecutor,† ZM 207 Captain E.M.K. MacGregor, MC (RCIC)
The Royal Canadian School of Infantry

[redacted] defending officer† ZE 1102 Captain P.A. Tremblay (RCIC)
The Royal Canadian School of Infantry

At 1000 hours the Trial commences.

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

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.

Q.1 *Question by the President to the accused.* Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

A.1 *Answer by accused.* No, Sir.

(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, Unit, Attachment (if any), and Appointment (if any).

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

‡ Qualification to be stated.

(Strike out and initial when not applicable.)

*I have satisfied myself that none of the officers detailed as members of this Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the charge ([redacted]) before the Court-Martial.

D.K. Todd
D.K. Todd, Colonel,
President, G.C.M.

CAFB 271
3M—3-49 (2090)
H.Q. 224-21-B-271

2.

B

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

Q.2 Do you object to SP 28126 Sgt. A.H. Sinclair, (RCASC), Office of the Judge Advocate-General, att HQ Central Command acting as shorthand writer? A.2 Answer No, Sir.

Question to the accused.

SP.28126 Sgt. A.H. Sinclair, (RCASC) Office of the Judge Advocate-General, attached Headquarters, Central Com is duly sworn as shorthand writer.

The following officers under instruction, having been duly detailed, are duly sworn.

Charge-Sheet

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

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

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

2C 110 Lieutenant Wilfred Emile Brousseau, The Royal Canadian School of Infantry

Q.3 Is that your number, rank, name and unit?

Question to the accused.

A.3 Yes, Sir.

Answer.

Are you guilty or not guilty of the first charge against you which you have heard read?

Question to the accused.

Q.4 Are you guilty or not guilty of the charge against you which you have heard read?

Answer.

A.4 Not guilty, Sir.

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

Question.

Answer.

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

Question.

Answer.

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

Question.

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 Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

Instruction.

"B2"

J.C.A. Campbell Major Judge Advocate

D.K. Todd Col.

Pres. G.C.M.

CHARGE SHEET

The accused, No. ZC-110 Lieutenant Wilfred Emile BROUSSEAU, Royal Canadian School of Infantry, CAMP BORDEN, Ontario, an officer of the Canadian Army, Active Force, is charged with:

Absenting Himself Without Leave

CHARGE
Sec 15 (1)
Army Act

in that he

at Camp Borden, Ontario absented himself without leave from 0900 hours, 2 AUG 49 until 1400 hours, 8 AUG 49.

N.M. Gemmell Lt Col
(N.M.GEMMELL), Lt Col.,
A/Commandant,
The Royal Canadian School of Infantry

Camp Borden, Ontario
25th AUGUST, 1949

To be tried by General Court-Martial.

L.N. Guens Lt Col
A.A.&Q.M.G. Central Command
for (C. Vokes)
Major-General, GOC,
Central Command

OAKVILLE, Ont.
26th AUGUST 1949

(This page to be removed from proceedings if plea to all charges is Guilty.)

C

Proceedings on Plea of Not Guilty

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

Question. 5. *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. 5. No, Sir.

(Strike out and initial words not applicable.) The prosecutor ~~makes an opening address [hands in a written address which is read, marked , signed by the President, and attached to the proceedings]~~, [declines to make an opening address].

The prosecutor proceeds to call witnesses.

First witness for prosecution. 44137 Major F.J.W.H. Moore, British Army, attached to the Royal Canadian School of Infantry, CA (AF),

being duly sworn, is examined by the prosecutor.

Q.6 Would you identify yourself to the Court, please?
A.6 I am Major Francis James Willoughby Hamilton Moore of the British Army, attached to the Royal Canadian School of Infantry, Canadian Army.

Q.7 Your regimental number?
A.7 44137.

Q.8 Will you give your evidence in the case of Lieutenant Brosseau?
A.8 I command the COTC detachment at the R.C.S. of I, Camp Borden. Lieutwnant Brosseau, whom I now recognize, was employed as an instructor in the Tactics Team of the COTC instructional staff. At approximately 0830 hours on Monday the 1st of August, 1949, I was called to the phone by Lieutenant Brosseau who was speaking from Ottawa. He told me that he had missed his connection and that he could not get back to work that day. I replied that he should get back as soon as possible.

Q.9 Did you make any communication to Mr. Brosseau regarding the time he should report back?
A.9 All I said was that he should get back as soon as he possibly could. I assumed that by that I was giving him sufficient time to get back.

THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE

QUESTIONS BY THE COURT

Q.10 Mr. Brosseau was under your command was he Major?
A.10 That is correct.

Q.11 You are his senior officer?
A.11 I am in charge of the training and he worked under me.

Q.12 And when should he have been back on duty?
A.12 At 0830 on Monday morning. (2)

Q.13 Could you give us the date?
A.13 On the first.

Q.14 And the next time he should have been on parade was when?
A.14 At 0830 hours on the second.

IN THE OPINION OF THE COURT AND THE JUDGE ADVOCATE IT IS UNNECESSARY TO COMPLY WITH RP 93(B).

THE WITNESS WITHDRAWS.

SECOND WITNESS FOR THE PROSECUTION

ZK 136 Major G.E.M. Gillen, Army Headquarters, Ottawa, Ontario, being duly sworn, is examined by the Prosecutor:

Q.15 Would you identify yourself to the Court?
A.15 I am ZK 136 Major G.E.M. Gillen, from the Directorate of Personnel, AHQ, Ottawa.

Q.16 Will you give your evidence in the case of Lieutenant Brosseau?
A.16 At approximately 1400 hours on the 8th August, Lieutenant Brosseau reported to me in my office and informed me that he was absent from the School of Infantry. I discussed several problems with him and told him to report back to the School. Due to a misunderstanding on my part I did not know a train left that day and I instructed him to report to me on the following morning, which would be the 9th, and I arranged for him to get a train at 10 o'clock. When he came in to see me on the 8th we went over his problems and I suggested two or three solutions to him; I also suggested that the sooner he got back to the School the better and as I say, at that time I assumed the first train he could catch was on the morning of the 9th.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q.17 When Lieutenant Brosseau reported to you in Ottawa on the 8th August, in what frame of mind did he appear to you to be in?
A.17 He seemed quite worried and after I had spoken to him for awhile I discovered that he appeared depressed with the general situation.

Q.18 I understand that some five weeks ago you were in Camp Borden, particularly at the School of Infantry on a liaison visit. At the time I understand that Lieutenant Brosseau spoke to you about accommodation in Camp Borden and did you at the time say that you would speak to Major Scotti about it?
A.18 I don't remember.... I didn't see Major Scotti during that visit.

Q.19 Is it quite possible that this conversation took place though?
A.19 I remember Mr. Brosseau discussing this with me, but I can't remember what I said.

THE PROSECUTOR DECLINED TO RE-EXAMINE

QUESTIONS BY THE COURT

Q.20 What conversation did you have with Mr. Brosseau when he reported in to you the first time, on 8th August?
A.20 I asked him why he was absent from the School and he told me financial worries which confused his mind. I gave him a good ticking off and went over his financial problems with him and

.....

tried to clear his mind up to make him see they were not quite as difficult as he thought they were at the time.

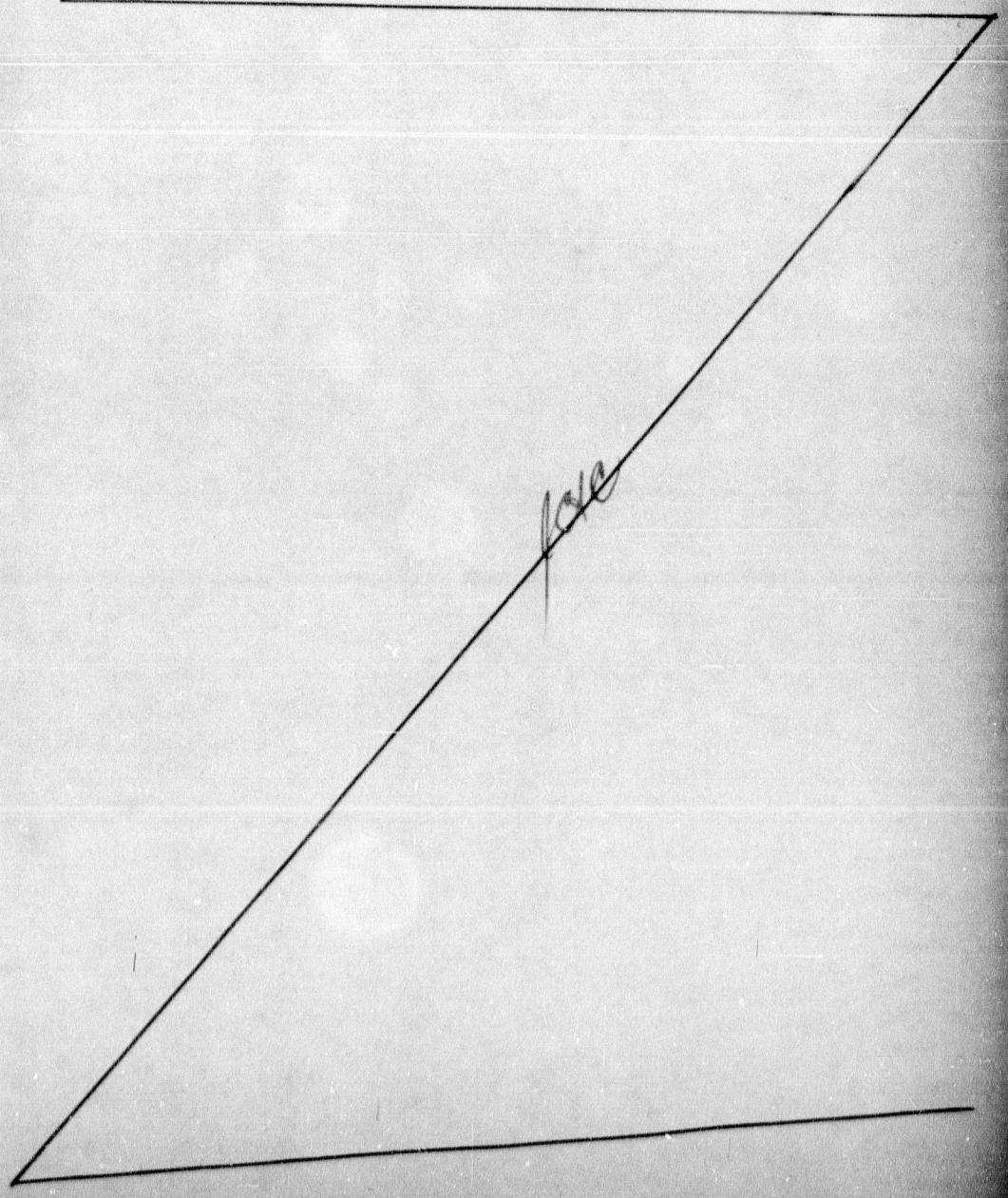
Q.21 Did he say he was absent from the School or absent without leave?

A.21 I cannot remember the exact words, but I got the impression that he was absent without leave from what he said.

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

THE WITNESS WITHDRAWS.

THE PROSECUTOR INFORMS THE COURT THAT HE HAS NO FURTHER WITNESSES.



(This page to be removed from proceedings if plea to all charges is Guilty.)

D

The prosecution is closed.

Defence

Question to the accused. Q.22 — Do you apply to give evidence yourself as a witness?

Answer. A.22 — Yes, Sir.

Question. Q.23 — Do you intend to call any other witness in your defence?

Answer. A.23 — Yes, Sir.

Question. Q.24 — Is he a witness as to character only? *Answer.* A.24 — Yes.

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) (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 overleaf*).

[redacted]

Question to the accused. [redacted]

Answer. [redacted]

† 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*.)

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D2

FIRST WITNESS FOR THE DEFENCE

The accused, ZC 110 Lieutenant Wilfred Emile Brosseau, The Royal Canadian School of Infantry, being duly sworn, is examined by the Defending Officer:

Q.25 Will you tell your case to the Court?

A.25 Yes. On the 29th July, 1949, I was given a short leave. My purpose in proceeding to Ottawa was to try and straighten out certain matters, that is, financial problems, and other personal problems which had been on my mind for some time. Before I was reappointed to the Canadian Army I must confess I had accumulated a certain number of debts, but my earnings in civilian life, which were much more than I make now, were such that would warrant these debts. My earnings were almost double of what I am making now and with this income it was possible to make any monthly payments and to fulfill any financial commitments which my wife and I had. From the time that proceedings were instituted for my reappointment to the Canadian Army until such time as the actual reappointment did take place, I had not worked for approximately five weeks and therefore there was no income into the home. The heavy expense involved in purchasing several items of military equipment, moving my wife and family to Toronto, for which I had permission to do, and the fact that there had been no income in the home, put me in a rather embarassing financial situation, whereas I couldn't meet payments on two or three bills. Prior to the 29th July, 1949, I had received in Camp Borden here both letters and wires from at least two of these creditors stating that if immediate payment could not be made they were going direct to my Commanding Officer. Now I had been an officer in the Army before and realized it was quite a serious situation to find myself in and on the 28th July I went to see the manager in the Canadian Bank of Commerce in Borden, Mr. Ballantine. Mr. Ballantine, I was informed, had just left on two or three weeks holidays and the relieving manager was not in a position to help a person financially. I felt desperate about this and so I proceeded to Ottawa to straighten it out. Prior to my reappointment to the Canadian Army I had been interviewed by the Director of Infantry in Ottawa and the Director of Personal Services and had been promised then that the Director of Infantry would make arrangements with the Commandant of the School here in Borden for accommodation for my wife and three children within two months. I realize, gentlemen, that perhaps I am bringing certain names into this that I shouldn't, but in my own defence I feel that I should. I placed all my furniture in storage and moved my wife and family to Toronto at my own expense. During the war years, gentlemen, I had been separated from my family on several long occasions and so I had my mind made up that this time if it were at all possible I was going to have them with me for I feel that a father should be with his children to give them the proper upbringing and care. A few hours before I left Camp Borden for Ottawa on that weekend I spoke to the DAA & QMG, RCS of I. He informed me at that time that because of certain building difficulties it would be impossible for me to secure PMQ's until December. At the same time I received a letter from my wife in Toronto and she was going to be evicted on the 23rd August and said in her letter that she was going to be up in Camp Borden, bag and baggage, on the 24th, with the children. On Monday I telephoned Major Moore and informed him that I had missed my train on Sunday night. I tried on Monday and Tuesday to go, or rather to come to some financial settlement with respect to these financial problems that were playing on my mind, but I must say that although I tried very hard, I failed...failed absolutely. Monday was a Civic Holiday and on Tuesday I couldn't. Three times during that week I gave my hotel room up at the Alexandra Hotel. I must say that I must have temporarily lost my sense of responsibility, and on Sunday, 6th August, I perhaps re-

.....

my senses...I had been drinking quite heavily...and on Monday morning I telephoned to Major Gillen and was informed by his stenographer that he would be in at 1400 hours in the afternoon and at that time I reported to him and subsequently back to Camp Borden. I am very pleased this morning that we have two medical officers on the Court, because I feel that perhaps they can realize that my service has always been good, and under ordinary circumstances I would not have deterred from military duty, but with these things on my mind I felt... well, I felt that in this instance my duty was with the interests of my wife and family. That is all I can say.

CROSS-EXAMINED BY THE PROSECUTOR

Q.26 Will you tell me at what time your morning parade..your duties that is, normally commence?
A.26 0830 hours.

Q.29 Is it true on some days you are not actually called on until 0930 hours for duty?
A.29 Yes.

Q.30 When Major Moore replied that you should get back as soon as you could, did you take that as being a reasonable extension of leave?
A.30 No.

Q.31 Were you in fact absent from the Royal Canadian School of Infantry at 0900 hours, on 2nd August, 1949?
A.31 Yes.

Q.32 Were you absent without leave at that time?
A.32 Yes.

Q.33 Did you in fact report to Major Gillen at Army Headquarters in Ottawa at 1400 hours on 8th August, 1949?
A.33 Yes.

Q.34 And until the time you reported you were absent without leave?
A.34 Yes.

THE DEFENDING OFFICER DECLINED TO RE-EXAMINE

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

THE WITNESS RESUMES HIS SEAT

SECOND WITNESS FOR THE DEFENCE (CHARACTER WITNESS)

Ex-Major W. Ott, 833 Main Street, West, North Bay, Ontario, having been duly sworn, is examined the Defending Officer:

Q.35 Will you identify yourself to the Court, please?
A.35 I am William Ott, and at the present time I am Eastern Sales Manager for the Hinsburger Company Limited of North Bay, Ontario, where I reside at 833 Main Street, West. At the time this Court would be interested in my Army career I was Company Commander of "B" Company, The Carleton and York Regiment, 3rd Brigade, First Canadian Division.

Q.36 Do you recognize Lieutenant Brosseau as being in this room?
A.36 Yes.

Q.37 Would you state exactly in your own words the circumstances under which you came to know Lieutenant Brosseau, for how long, the approximate dates, in what capacity he was employed under you and also would you comment on his military ability and on his character as you knew him?

A.37 Lieutenant Brosseau came up to the Carleton & York Regiment from the Special Service Battalion on or about the middle of November, 1944. At that time he was sent to my Company which was "B" Company and commanded one of my platoons. He remained with me until wounded in April, 1945. During the time that he was with my Company I recommended him for his Captaincy about two weeks prior to his being wounded. On several occasions while with me, although he was my junior Lieutenant, when leaving the line I left the Company in his charge because it was my firm opinion that he was the best Lieutenant I had at that time and the only officer I could feel reasonably sure would take charge if anything happened in my absence. He was thought very highly of not only by myself, but by the Colonel of the Regiment and the 2IC, who were also very anxious to see him get his promotion. However, we couldn't get it for him because he was struck off our strength before his Captaincy could go into effect.

Q.39 Would you care to state of an incident for which he might have been recommended for an award?

A.39 I am under the impression, it is something I am not positive about, that he was recommended for an award with my Battalion. As a result of a patrol on the Sernio River... it was a particularly ticklish job...and he was assigned the job and completed it with a great degree of personal bravery.

Q.40 I think that is all, unless you wish to add anything else?

A.40 Nothing else, except to repeat that he was thought very highly of by all, and certainly enough so to see that he got the next Captain vacancy open, although he was not up in the seniority list.

THE PROSECUTOR DECLINES TO CROSS-EXAMINE.

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

THE WITNESS WITHDRAWS.

THIRD WITNESS FOR THE DEFENCE (CHARACTER WITNESS)

ZB 574 Major H.F. Wood, Chief Instructor, The Royal Canadian School of Infantry, Camp Borden, Ontario, being duly sworn, is examined by the Defending Officer:

Q.41 Major Wood, would you identify yourself to the Court?

A.41 I am ZB 574 Major Wood, H.F., Chief Instructor at The Royal Canadian School of Infantry in Camp here.

Q.42 Do you recognize Lieutenant Brosseau as being present in this room?

A.42 Yes, I do.

Q.43 How long have you known him and in what capacity is he employed under you, exactly what work he did and how you propose to employ him?

A.43 I have known him since his arrival at the School, approximately two months ago. Since he was a new comer I watched him closely and because of the fact that he was a re-enlisted officer with experience, I proposed to em-

ploy him along those lines and I wanted to be very sure he was suitable. He was posted to the COTC Section where he was an instructor. He was capable of taking on the job I had in mind for him and I planned to put him in the Co-Ordimate Office of the School. The requirements for this job are intelligence and a sense of responsibility. Brosseau's absence occurred while he was on COTC instructional duties. On his return there was no senior officer available to take the GMT Wing of the School and I placed him in command of that unit. He justified my confidence in him and during a recent detailed inspection by the D.C.G.S. there was little of an adverse nature made with regard to the running of the GMT by Mr. Brosseau. I consider him to be a very intelligent officer, capable and with a clear developed sense of responsibility.

THE PROSECUTOR DECLINED TO CROSS-EXAMINE

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

THE WITNESS WITHDRAWS

THE DEFENDING OFFICER INFORMS THE COURT THAT HE HAS NO FURTHER WITNESSES

THE DEFENCE IS CLOSED

THE PROSECUTOR MAKES A CLOSING ADDRESS
(See document marked "G" attached)

THE DEFENDING OFFICER MAKES A CLOSING ADDRESS
(See document marked "H" attached)

THE JUDGE ADVOCATE ADDRESSES THE COURT
(See document marked "I" attached)

E

Finding*

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

The Court is closed for the consideration of the finding.

The Court find that the accused ZC 110 Lieutenant Wilfred Emile Brosseau, The Royal Canadian School of Infantry, is guilty of the charge.

ANNOUNCEMENT OF FINDINGS

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

The finding is read in open court and [illegible] is announced as being subject to confirmation.

Proceedings on Conviction *before Sentence*

ZM 207 Captain E.M.K. MacGregor, MC, (RCIC), Adjutant, The Royal Canadian School of Infantry, is duly sworn.

Evidence of character, etc.

Q.44 *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.* A.44 Yes, the accused's M.F.B. 355

The above statement [illegible] is read, marked "Y", signed by the President, and annexed to the proceedings.

Q.45 *Question by the President.* Is the accused the person named in the statement which you have heard read? *Answer by the witness.* A.45 Yes, Sir.

Q.46 *Question.* Have you compared the contents of the above statement with the regimental books? *Answer.* A.46 Yes, Sir.

Q.47 *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.* A.47 Yes, Sir.

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

[illegible] THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE [illegible]

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

THE WITNESS RESUMES HIS SEAT

Q.48 *Question to the accused.* Do you wish to address the Court?

Answer. A.48 DEFENDING OFFICER: Yes, I wish to make a plea in mitigation, (See document marked "J" attached)

The Court is closed for the consideration of the sentence.

20

F

Sentence

The Court sentence the accused ZC 110 Lieutenant Wilfred Emile Brousseau, The Royal Canadian School of Infantry, to be severely reprimanded.

Sentence. Severe reprimand

Announcement of Sentence

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

The sentence (~~and recommendation~~) is (~~are~~) announced in open Court; the sentence is announced as being subject to confirmation.

Signature

Signed at Camp Borden, Ontario,

this 30th day of August A.D. 1949.

J. A. Campbell Major — Judge Advocate

D.K. Todd Col. — President

Confirmation

Signed at ,

this day of A.D. 19 .

Extracts entered as No. 47136 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 31st day of Oct. 1949

Promulgation

Promulgation and extracts taken at CAMP BORDEN, Ontario,

this 13th day of OCTOBER, A.D. 1949.

N.M. Gemmell Lt.-Col.

(N.M. GEMMELL) Lt.-Col.,
T/Commandant,
The Royal Canadian School of Infantry.

D.K. Todd Col
Pres. G.C.M.

J.C.A. Campbell Major
Judge Advocate

ORDERS BY

Major-General C. Vokes, CB, CBE, DSO,
General Officer Commanding
Central Command

OAKVILLE, Ontario,
26th August, 1949.

GENERAL COURT-MARTIAL
ZC 110 Lieutenant Wilfred Emile BROUSSEAU
The Royal Canadian School of Infantry

The detail of officers mentioned below will assemble at No. 12 Military Detention Barracks, Camp Borden, Ontario, on Tuesday, 30th August, 1949, at 10 o'clock, a.m. (EDST), for the purpose of trying by General Court-Martial the accused person named in the margin (and such other persons as may be brought before them).

PRESIDENT

ZP 1446 Colonel D.K.Todd, DSO (GENERAL LIST)
Headquarters Camp Borden

MEMBERS

ZL 2096 Lt-Col J.L.Lapoint (RCASC)
The Royal Canadian Army Service Corps School

ZP 1340 Lt-Col F.R.I. Slack (RCAMC)
The Royal Canadian Army Medical Corps School

ZB 2391 Lt-Col C.B. Caswell, MC. (RCAMC)
37 Field Ambulance Royal Canadian Army Medical Corps

ZD 831 Major C.R. Hale, DSO (RCAC)
The Royal Canadian Armoured Corps School

WAITING MEMBER

ZB 1029 Major J.F. Merner (RCAC)
The Royal Canadian Armoured Corps School

JUDGE ADVOCATE

ZB 1052 Major J.C.A. Campbell, ED,
Office of the Judge Advocate General
Attached Headquarters, Central Command

PROSECUTOR

ZM 207 Capt. E.M.K.MacGregor, MC (RCIC)
The Royal Canadian School of Infantry

DEFENDING OFFICER

ZE 1102 Capt. P.A. Tremblay (RCIC)
The Royal Canadian School of Infantry

23

OFFICERS UNDER INSTRUCTION

The Commander, Camp Borden, may detail officers to attend the Court-Martial for instruction.

The accused persons will be warned and all witnesses duly required to attend.

The Commandant, No. 12 Military Detention Barracks, will arrange for the necessary accommodation, stationery and court orderly and will also ensure that the necessary escort has been provided.

The Officer Commanding, The Royal Canadian School of Infantry, will arrange for the attendance of the necessary shorthand writer.

The Commanding Officer of each soldier brought before the Court for trial will, if the accused requires it, detail an interpreter for the trial of such soldier.

The proceedings will be forwarded to the AA & QMG, Central Command.

SIGNED at OAKVILLE, Ontario, this 26th day of August, 1949

for A.A.&Q.M.G. Central Command
(C. Vokes) Major-General
G.O.C., Central Command

D.K. Todd, Col.
Pres. G.C.H

PROSECUTOR'S CLOSING ADDRESS

I would like only to recapitulate the fact that Lieutenant Brosseau has admitted his absence as stated in the charge. I therefore submit that he is guilty of absence without leave from 0900 hours the 2nd of August, 1949, until he surrendered himself at 1400 hours, 8th August, 1949.

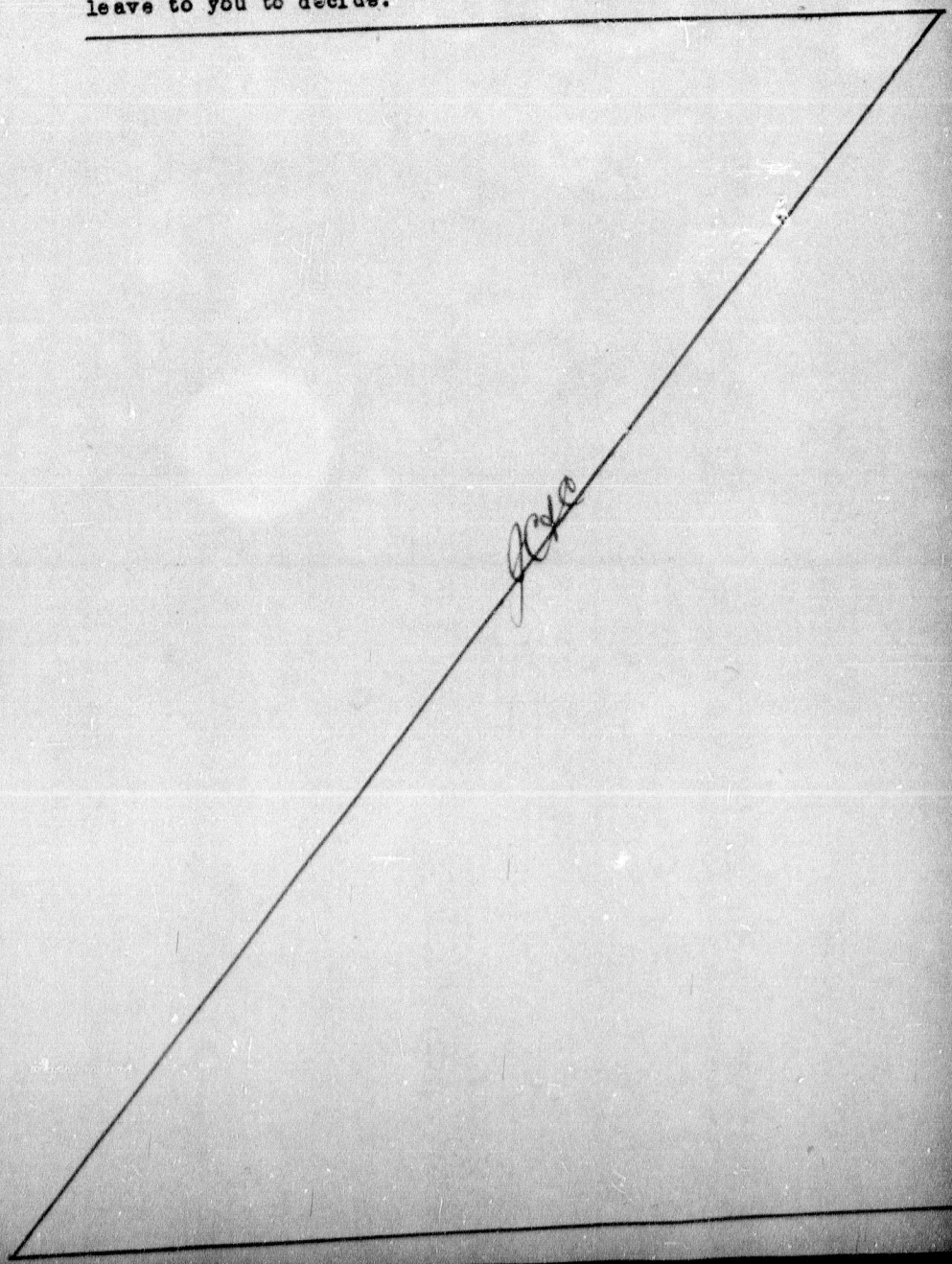
J.C. Campbell Major Judge Advocate

Lt. Todd Can Pres. D.C.M.

27

DEFENDING OFFICER'S CLOSING ADDRESS

Mr. President and gentlemen of the Court...Mr. Brousseau has pleaded not guilty to the charge laid against him in order that he might outline to you under oath the very extenuating circumstances in his case. In accordance with military law this officer has been absent from his place of military duty, official military duty that is....this fact we do not dispute. However, gentlemen, after having heard his evidence under oath, do you think that according to his conscience and also the fact that he was prompted by his sense of duty towards his family, that he was actually from his place of duty? This, gentlemen, we leave to you to decide.



"I" 29

J.C.A. Campbell Major
Judge Advocate

O.K. Todd Col
Pres. G.C.M.

THE JUDGE ADVOCATE ADDRESSES THE COURT

Mr. President and gentlemen. Under a recent amendment to the Rules of Procedure, where there is a plea of not guilty in a case, it is ~~necessary~~ [illegible] that the Judge Advocate sums up for the benefit of the Court and advise the Court on the law that applies to the particular case. JCAC

In this case I do not propose to be very lengthy in my summing up because of the fact that the Prosecution has adduced evidence to show the connection of the offence with the accused and the accused under oath has admitted himself that he was absent without leave. Therefore, in my capacity as Judge Advocate, I feel that I must advise the Court that they should bring in a finding of guilty on the charge.

There is no doubt that there are strong extenuating circumstances that you have heard under oath from the accused, which will be taken into consideration when the time comes to award sentence, but I repeat that in my official capacity here I must advise the Court that I consider a finding of guilty should be made on this charge, in view of the admission by the accused under oath.

Normally, the Judge Advocate always advises the Court on the question on the burden of proof in a case and also that the accused is always entitled under our code of law ~~to~~ the benefit of all reasonable doubt. I consider this to be unnecessary in this particular case. JCAC

I don't propose to say anything further unless you feel that I should.

JCAC

J.A. Campbell Major
Judge Advocate

[illegible] IN MITIGATION OF SENTENCE

D.K. Dodd
Pres. G.C.M.

Gentlemen, I trust you will forgive me for using this Aide-Memoire but I am particularly anxious to observe the proper chronological order in outlining to you the record of service of Lieut. Brousseau.

Brousseau joined the C.A.S.F. on 11 Sep 39 as a private soldier, and proceeded overseas in the rank of Sjt. in Jun 41. He was subsequently posted to the Fusiliers Mont-Royal of the 2nd Cdn Div as a platoon Sjt. Because of his good character and military ability he was returned to Canada for O.C.T.U. in Dec 42. In May 43, having very successfully passed the course he was made a Lieut. and retained as an Instr on the qualifying course - 2/Lt. to Lt. - at A-10 C.I.T.C., Camp Borden, Ont. However, he felt that his duty was with a field unit and in Jan 44, after pleading several times with the military authorities to be returned overseas, he was allowed to proceed and join the Carleton and York Regiment, 3 C.I.B., 1st Cdn. Div. This unit was then in Italy as part of the 8th Army, C.M.F. He served as a Carleton and York Regiment officer in that theatre until Jun of the same year, when he was selected from a number of volunteers for posting to the combined Canadian-American Force, called First Special Service Bn. Lt. Brousseau saw combat service with this unit in Italy, in the rubber-boat landings on the islands south of the coast of France, and in the campaign from Marseilles to the Franco-Italian Border. The 1st S.S.F. was then disbanded and Brousseau rejoined his former unit, the C.Y.R., in Dec 44; in so doing he turned down a staff appointment at 2nd Echelon in Avalino, Italy, which was offered him by Colonel M.S. Dunn, O.B.E., then O i/c 2nd Echelon, and now Commander of the Newfoundland Area. Lt. Brousseau served with his unit till the end of hostilities in North West Europe, and in the last action in which the C.Y.R. participated he was severely wounded by shrapnel and subsequently evacuated to Canada with a "P.5R" medical category.

On arrival in Canada, despite his medical category, Lt. Brousseau further offered his services to his country in any capacity. He was then posted to A.H.Q. (then N.D.H.Q.) and appointed Infantry representative in the Office of the Director of Amy Personnel. At the time, gentlemen, the army was in an early state of re-organization and records were practically non-existent for the Infantry Corps. This was a very hard job to tackle, but not one which Brousseau would shun. He immediately set to the task and very ably effected the postings of all personnel, both officers and men, to their respective A.F. units. I am sure, gentlemen, that if you were to ask Major Gillan, who is now employed in this particular appointment, he would tell you that the job was very efficiently done and in that very few amendments were necessary. In addition I would like to read out and present to the Court for perusal a copy of a letter of recommendation given to Brousseau by Colonel Dollard Menard, D.S.O., then Director of Infantry, [illegible] Military Attache to the French Republic at Paris, France. Lt. Brousseau had his heart set on a military career, but because his retention in the Army would have necessitated a Corps transfer, he preferred retirement, and left the service in November 46, having been granted a small disability pension, which he still retains. Brousseau did exceedingly well in civilian life and in the course of his civilian dealings with high ranking officers of the Army at Ottawa he was informed that he could come back in the Army, in his own corps, as medical standards had now been lowered for certain staff and instructional appointments in the Infantry - also that the Corps was in need of bilingual instructors. Lieut. Brousseau did not hesitate because he felt the army was really his vocation, even if it meant a considerable loss in financial remuneration, and the reversion from the rank of Captain to that of Lieut. Gentlemen, you know the rest of the story as it was given to you by Brousseau under oath.

Gentlemen, you are about to pronounce sentence on a very valuable officer to the Canadian Army, whose only offence, I feel, has been an error of judgement, in not taking steps to legalize his very necessary absence from duty with the Army. You have heard evidence introduced as to the good character of Lt. Brousseau, and as to his record both in the C.A.S.F. and the A.F. Gentlemen, we throw ourselves on the mercy of the Court and would respectfully ask that you take the following into consideration before passing sentence:

(a) Lt. Brousseau is married and he has three children, who are still waiting to rejoin their "dad" in Camp Borden.
(b) He has not been convicted of any offence whatsoever before.
(c) Pending his trial, he has been entrusted with the Command of the General Military Training Wing at R.C.S. of I., one of the most important sub-units of this School.
(d) Dependent on the outcome of this trial it is proposed to employ him as a Co-ordinator of Training in the Office of the Chief Instructor.
(e) He is a very well qualified officer, and a gentleman; he is fit to continue serving his country for many long years to come if you will let him.
(f) With the help of the C.O. I know that his problems are now being taken care of to the satisfaction of all concerned.

THANK YOU.

[illegible]

IN MITIGATION OF SENTENCE

Gentlemen, I trust you will forgive me for using this Aide-Memoire but I am particularly anxious to observe the proper chronological order in outlining to you the record of service of Lieut. Brousseau.

Brousseau joined the C.A.S.F. on 11 Sep 39 as a private soldier, and proceeded overseas in the rank of Sjt. in Jun 41. He was subsequently posted to the Fusiliers Mont-Royal of the 2nd Cdn Div as a platoon Sjt. Because of his good character and military ability he was returned to Canada for O.C.T.U. in Dec 42. In May 43, having very successfully passed the course he was made a Lieut. and retained as an Instr on the qualifying course - 2/Lt. to Lt. - at A-10 C.I.T.C., Camp Borden, Ont. However, he felt that his duty was with a field unit and in Jan 44, after pleading several times with the military authorities to be returned overseas, he was allowed to proceed and join the Carleton and York Regiment, 3 C.I.B., 1st Cdn. Div. This unit was then in Italy as part of the 8th Army, C.M.F. He served as a Carleton and York Regiment officer in that theatre until Jun of the same year, when he was selected from a number of volunteers for posting to the combined Canadian-American Force, called First Special Service Bn. Lt. Brousseau saw combat service with this unit in Italy, in the rubber-boat landings on the islands south of the coast of France, and in the campaign from Marseilles to the Franco-Italian Border. The 1st S.S.F. was then disbanded and Brousseau rejoined his former unit, the C.Y.R., in Dec 44; in so doing he turned down a staff appointment at 2nd Echelon in Avalino, Italy, which was offered him by Colonel M.S. Dunn, O.B.E., then O i/c 2nd Echelon, and now Commander of the Newfoundland Area. Lt. Brousseau served with his unit tillthe end of hostilities in North West Europe, and in the last action in which the C.Y.R. participated he was severely wounded by shrapnel and subsequently evacuated to Canada with a "P.5R" medical category.

On arrival in Canada, despite his medical category, Lt. Brousseau further offered his services to his country in any capacity. He was then posted to A.H.Q. (then N.D.H.Q.) and appointed Infantry representative in the Office of the Director of Amy Personnel. At the time, gentlemen, the army was in an early state of re-organization and records were practically non-existent for the Infantry Corps. This was a very hard job to tackle, but not one which Brousseau would shun. He immediately set to the task and very ably effected the postings of all personnel, both officers and men, to their respective A.F. units. I am sure, gentlemen, that if you were to ask Major Gillan, who is now employed in this particular appointment, he would tell you that the job was very efficiently done and in that very few amendments were necessary. In addition I would like to read out and present to the Court for perusal a copy of a letter of recommendation given to Brousseau by Colonel Dollard Menard, D.S.O., then Director of Infantry, and now Military Attache to the French Republic at Paris, France. Lt. Brousseau had his heart set on a military career, but because his retention in the Army would have necessitated a Corps transfer, he preferred retirement, and left the service in November 46, having been granted a small disability pension, which he still retains. Brousseau did exceedingly well in civilian life and in the course of his civilian dealings with high ranking officers of the Army at Ottawa he was informed that he could come back in the Army, in his own corps, as medical standards had now been lowered for certain staff and instructional appointments in the Infantry - also that the Corps was in need of bilingual instructors. Lieut. Brousseau did not hesitate because he felt the army was really his vocation, even if it meant a considerable loss in financial remuneration and the reversion from the rank of Captain to that of Lieut. Gentlemen, you know the rest of the story as it was given to you by Brousseau under oath.

Gentlemen, you are about to pronounce sentence on a very valuable officer to the Canadian Army, whose only offence, I feel, has been an error of judgement, in not taking steps to legalize his very necessary absence from duty with the Army. You have heard evidence introduced as to the good character of Lt. Brousseau, and as to his record both in the C.A.S.F. and the A.F. Gentlemen, we throw ourselves on the mercy of the Court and would respectfully ask that you take the following into consideration before passing sentence:

(a) Lt. Brousseau is married and he has three children, who are still waiting to rejoin their "dad" in Camp Borden.
(b) He has not been convicted of any offence whatsoever before.
(c) Pending his trial, he has been entrusted with the Command of the General Military Training Wing at R.C.S. of I. , one of the most important sub-units of this School.
(d) Dependent on the outcome of this trial it is proposed to employ him as a Co-ordinator of Training in the Office of the Chief Instructor.
(e) He is a very well qualified officer, and a gentleman; he is fit to continue serving his country for many long years to come if you will let him.
(f) With the help of the C.O. I know that his problems are now being taken care of to the satisfaction of all concerned.

THANK YOU.

OTTAWA, CANADA.
10 Oct 48

TO WHOM IT MAY CONCERN

This is to certify that Capt W.E. BROUSSEAU has been at my service for th past year.

This officer is now going back to civil life, in view of the fact that his medical category has been lowered, due to severe wounds received in action, and has become unfit for further active service.

We are very sorry to lose the services of this officer because he will be difficult to replace.

He has ample knowledge on selection and placement of officers and other ranks.

Capt Brousseau is absolutely loyal, keen, honest, reliable, efficient and sober in his habits.

I therefore do not hesitate to recommend this officer to anybody.

(sgd) (D. MENARD) Colonel
Director of Infantry.

MEDICAL OFFICER'S REPORT

I certify that No. ZC 110 Lt W E BROUSSEAU

of RCS of I is in a fair state of health,

and fit to undergo Trial by Court martial.

Medical Officer (RCAMC)

Station Camp Borden Station Hospital

Date 30 Aug 49

M. F. B. 246

50M—9-44 (5437)

H.Q. 1772-39-480

"Y"

D.K. Todd Col.
Pres. G.C.M.

M.F.B. 355
75M—5-43 (145)
H.Q. 1772-39-620
A.F.B. 294

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

J.C.H. Campbell Major
Judge Advocate

Number	Rank	Name	Regiment (or unit)
ZC 110	Lieutenant	Wilfred Emile BROUSSEAU	RCS of I

1. The following is a fair and true summary of the entries in the ~~[illegible]~~ EMKM ~~[illegible]~~ EMKM ~~[illegible]~~ EMKM ~~or Company Conduct sheets of the accused~~ EMKM ~~[illegible]~~ EMKM ~~[illegible]~~ EMKM

	Within last 12 months		Since enlistment or appointment	
For	NIL	times	NIL	times
For		times		times
For		times		times
For		times		times

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

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

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

2. The accused has not been previously convicted

or,

~~[illegible]~~ EMKM ~~[illegible]~~ EMKM ~~[illegible]~~ EMKM ~~[illegible]~~ EMKM

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

or, ~~[illegible]~~ EMKM ~~[illegible]~~ EMKM ~~[illegible]~~

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

5. The present age of the accused according to his record of service is 28 yrs, 3 mos. ~~[illegible]~~ EMKM

6. The date of his commission specified in his record of service is 13 JUN 49 ~~[illegible]~~ EMKM ~~[illegible]~~ EMKM

7. The service which the accused is allowed to reckon towards discharge is 2 months 17 days EMKM

8. The accused is entitled to reckon 2 mos 17 days EMKM service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to ~~[illegible]~~ EMKM military decoration, or ~~[illegible]~~ EMKM military reward (or is in possession of or entitled to). | State any ~~[illegible]~~ EMKM military decoration or reward.

CVSM, clasp 1939-45 Star, Defence Medal, Italy Star, France & Germany Star, ~~[illegible]~~ EMKM ~~[illegible]~~ EMKM ~~[illegible]~~ EMKM Victory Medal

36

11. (In the case of an officer.) The accused holds in the [redacted] Permanent Force unit RCS of I ranked Lieutenant dated 13 JUN 49, and in his regiment (or corps) the rank of Lieutenant dated 13 JUN 49.

[redacted] present date:—

Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

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 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, Number ..... Rank ..... Unit Name ..... of ..... Regiment

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

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

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 30th day of August, 1949 (E.M.K. MacGregor) Capt
(Officer having custody of original document)

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.

SUMMARY OF EVIDENCE

in the case of

No. ZC 110 Lieutenant Wilfred Emile BROUSSEAU,
Royal Canadian School of Infantry, CA (AF)

charged with

ABSENCE WITHOUT LEAVE

The CO directs that the evidence be taken on oath.

1st Witness:- No. 44137 Major Francis James Willoughby Hamilton MOORE, British Army, attached to the Royal Canadian School of Infantry, CA(AF), being duly sworn states:

I am, No. 44137 Major Francis James Willoughby Hamilton MOORE, British Army, attached to the Royal Canadian School of Infantry, CA (AF). I am employed as OC COTC Wing, and ZC-110 Lieutenant Wilfred Emile BROUSSEAU, whom I now recognize, is under my ~~employ.~~ command. He is an officer employed on the Tactics Team to instruct COTC cadets. On Monday, 1st August, 1949, at approximately 0830 hours, Lt. BROUSSEAU telephoned me from OTTAWA, Ontario and informed me that he had missed his train connection. I told him to return to Camp Borden as soon as he could.

The witness declined to cross-examine..

Major
~~(British Army)~~ (attached)
Royal Canadian School of Infantry, CA(AF)

2nd Witness:

Major J.D.M. Gillan, Pers RCIC, Directorate of Personnel AG Branch, ~~AHQ~~, Ottawa, Ontario, being unable to serve as a witness, has been contacted and asked to forward his statement in accordance with RP 4 (G), this statement is appended to this Summary of Evidence and is purported to be signed by Major Gillan.

Lt.,
(J.A. CARSON)
Officer detailed to take this Summary of Evidence

QUESTION TO THE 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 THE ACCUSED:- "I wish to make a statement."

STATEMENT BY THE ACCUSED:-

No. ZC-110 Lieutenant Wilfred Emile BROUSSEAU, the Royal Canadian School of Infantry, CA(AF) states:

I am, ZC-110 Lieutenant Wilfred Emile BROUSSEAU of the Royal Canadian School of Infantry, CA (AF). At 0830 hours, 1 August, 1949, I telephoned Major MOORE from Ottawa and informed him that I had missed my Sunday night train and that I would report back to Camp Borden as soon as I could arrange transportation. There were several pressing personal and financial problems which had to be solved in Ottawa and although I proposed to take care of these matters and return to Camp Borden on Monday afternoon, I found that I was unable to do this because Monday had been declared a Civic Holiday, and all business houses were not open. On Tuesday, 2nd August, 1949 I attempted to get my problems cleared up but was most unsuccessful. These problems had been causing me considerable worry for some time. After failing to accomplish anything, I felt most discouraged and depressed and on Tuesday night I started to drink quite heavily, my recollection of events subsequent to Tuesday evening, 2nd August, 1949, is not clear as I continued to drink heavily. On Sunday, 7 August, 1949, I recollect coming to my senses and realizing that I had been in effect, absent without leave for the past five days. I immediately got in contact with Major J.D. GILLAN, Directorate of Personnel (Infantry), Army Headquarters, on Monday morning, 8 August, 1949 and subsequently returned to Camp Borden.

Lieutenant
Royal Canadian School of Infantry,
CA (AF).

Witness to the signature of ZC-110 Lieutenant Wilfred Emile BROUSSEAU, the accused who was duly cautioned in my presence in accordance with RP 4 (E) and who then made and signed the foregoing statement in my presence.

H.F. Wood

Major,
(H.F. WOOD)
Royal Canadian School of Infantry,
CA(AF).

I certify that the foregoing Summary of Evidence consisting of 2 pages was taken down by me in the presence of the accused at Camp Borden, Ontario this 11th day of August, 1949, and that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

J.A. Carson

(J.A. CARSON), Lt.,
The Royal Canadian School of Infantry, CA(AF)
Officer detailed to take this Summary of Evidence.

5

CONFIDENTIAL

ARMY HEADQUARTERS

HQC ZC 110 (Pers RCIC)

Ottawa, 11 Aug 49

Commanding Officer,
Royal Canadian School of Infantry,
CAMP BORDEN, Ontario.

Statement forwarded in Accordance with RP Para 4 (a)
ZC 110 Lt W.E. BROUSSEAU

1 On the afternoon of Monday 8 Aug 49, Lt WE Brousseau appeared in my office Room 2102 "B" Building National Defence Headquarters, Ottawa Ont, and stated that he was absent without leave from the Royal Canadian School of Infantry Camp Borden, Ont. I was aware of this fact and I questioned him concerning his reasons.

2 He explained that he was in financial difficulties, and that his creditors were about to take action to inform the military authorities. He stated that he had come to Ottawa to try and reach an agreement with his creditors but was unable to do so. Having remained one or two days over his time, he then became depressed, he stated, and eventually worried himself to the point where he decided to remain away.

3 I told him that remaining absent only added to his worries, and increased the gravity of the situation and instructed him to report back to the Comd RCS of I as soon as possible.

4 I discussed his financial situation with him in some detail, and showed him that while it was serious, it did not warrant him getting into the "flap" which he apparently was in.

5 Due to a misunderstanding on my part Lt Brousseau did not catch the train on the night of 8 Aug, but reported to me again on the morning of 9 Aug, and then left to catch the morning train to Camp Borden.

6 I telephoned Lt-Col Houghton on the morning of 9 Aug and explained the situation to him, including an account of my own actions.

J.D.M. Gillan

(J.D.M. Gillan) Maj
Pers RCIC
D Pers
AG Branch
AHQ

41

DEPARTMENT OF NATIONAL DEFENCE
MESSAGE FORM
FOR UNCLASSIFIED MESSAGES ONLY

INDICATE DEGREE OF PRIORITY		FOR MESSAGE CENTRE USE ONLY
OPERATIONAL IMMEDIATE		
PRIORITY		GR
ROUTINE		
IF NOT MARKED WILL BE TRANSMITTED DEFERRED	X	FROM
		ACTION ADDRESSEE/S

INFORMATION ADDRESSEE/S

ARMY OTTAWA

UNCLAS | ORIGINATOR'S NO. | ARMY OAKVILLE

ADM 1330

RE YOUR CC/ZC 110 (O/C ADM) DATED 31 AUG 49 (.) INFORMATION REQUESTED AT PARA 3 OUR HQ 55-B-3593, 1 Oct NOT YET RECEIVED (.) MAY SAME BE EXPIDITED PLEASE

ORIGINATOR	TELEPHONE	DATE - TIME GROUP	Z	FILE NO.

C.N.S. 1220J-150M-11-48 (2953)
C.A.F.B. 1616 (4 PARTS) 400M-11-48 (1702)
H.Q. 223-21-B-1616
R.C.A.F. 643-500M-11-49 (1745)

MESSAGE CENTRE COPY

HQC 55-B-3593

J.A. Hutchins)Col D Adm 2891

HQ C 55-B-3593 (Adm B1(b))

Headquarters,
Central Command,
Ortona Barracks,
OAKVILLE, Ontario.

1st October, 1949

DIRECTORATE OF ADMINISTRATION
ARMY
OCT 15 1949
OTTAWA
CANADA

General Court-Martial
ZC 110 Lt Wilfrid Emile Brousseau

1 Forwarded herewith proceedings of General Court-Martial in case of ZC 110 Lieut W E Brousseau, RCIC.

2 The sentence and finding of the court were confirmed by the Governor-General in Council at Government House, Ottawa, on 23 Sep 49.

3 It is requested that the confirmation of the finding and sentence be promulgated to Lieut Brousseau and copy of the proceedings returned to this Headquarters at your earliest convenience.

(J. A. Hutchins)
Lt-Col
Director of Administration

Loc 2891

Encl

KGMcS/MP

File: C55-B-3593 T.D.1

OFFICE OF THE DEPUTY MINISTER OF NATIONAL DEFENCE

MEMORANDUM

14th September, 1949.

RECEIVED IN THE OFFICE OF THE DEFENCE SECRETARY SEP 17 1949

The Minister

General Court Martial - Lieut. W.E. Brousseau

This submission seeks Privy Council authority to confirm the findings and sentence of a General Court Martial which tried Lieut. W.E. Brousseau at Camp Borden on 30th August, 1949 on the charge of absenting himself without leave from 2nd August to 8th August, 1949.

The accused officer pleaded not guilty but was found guilty and sentenced to be severely reprimanded.

JAG recommends.

AG recommends.

Recommended.

(C.M.Drury)
Deputy Minister

In reply quote No. HQC 55-B-3593 (Adm B2)

DEPARTMENT OF NATIONAL DEFENCE
ARMY
INTER-OFFICE CORRESPONDENCE

CANADA

CONFIDENTIAL 10 Sep 49

TO: The Minister

GCM - Lt W.E. Brousseau

The attached submission to the Governor General in Council forwards a recommendation requesting His Excellency to confirm the finding and sentence of the G.C.M. of ZC 110 Lt Wilfrid Emile Brousseau held at Camp Borden, Ontario on 30 Aug, 49.

2. Lt W.E. Brousseau was tried on one charge of AWL as set out in the submission attached hereto. The accused pleaded not guilty, was found guilty and was sentenced to be severely reprimanded.

3. The JAG has certified that the proceedings are regular, the finding properly made and the sentence according to law.

4. I am of the opinion that the finding and sentence are just and I recommend their confirmation.

5. Your signature to the submission is recommended.

(W.H.S. Macklin),
Major-General,
Adjutant-General.

M.F.A. 1328
LBRM—5-48 (999C)
N.Q. 1773-39-2009

EDC 86-B-3693 (JAG/O)

RECEIVED IN THE OFFICE OF THE DEFENCE SECRETARY
SEP 17 1949

SEP 20 1949

~~16th September, 1949.~~

TO: PRIVY COUNCIL BOARD
DATE 21-9-49
SERIAL No. 4074
Signature

TO:

HIS EXCELLENCY

THE GOVERNOR GENERAL IN COUNCIL

The undersigned has the honour to state the Adjutant General reports that:

(a) ZC 110 Lt. Wilfrid Emile Brousseau, Royal Canadian Infantry Corps, an Officer of the Canadian Army (Active Force) was tried by General Court Martial held at Camp Borden, Ontario, on the 30th day of August, 1949, on the following charge:

CHARGE
Sec 15(1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Camp Borden, Ontario, absented himself without leave from 0900 hours, 2 Aug 49 until 1400 hours, 8 Aug 49.

(b) The accused officer pleaded not guilty, was found guilty and sentenced to be severely reprimanded.

(c) The Judge Advocate General has certified that the proceedings are in order, the finding supported by the evidence and the sentence according to law.

(d) The Adjutant General recommends that the findings and sentence of this Court be confirmed.

2. The undersigned concurs in the foregoing report and has the honour to submit the same under the Militia Act for the consideration of Your Excellency.

Respectfully submitted,

Original Signed by
Brooke Claxton

MINISTER OF NATIONAL DEFENCE.

The foregoing which was prepared by the Directorate of Administration, carries out the desire and intention of this branch, and such facts as are therein recited are, in substance, complete, correct, relevant and material.

Date 10 Sept 49

Major-General,
Adjutant-General

Approved as to form
W.M.W. Shaw
DEPUTY
Judge Advocate-General

HQC 55-B-3593 (Adm B2)

CONFIDENTIAL 10 Sep 49

TO: The Minister

GCM - Lt W.E. Brousseau

The attached submission to the Governor General in Council forwards a recommendation requesting His Excellency to confirm the finding and sentence of the G.C.M. of ZC 110 Lt Wilfrid Emile Brousseau held at Camp Borden, Ontario on 30 Aug 49.

2. Lt W.E. Brousseau was tried on one charge of AWL as set out in the submission attached hereto. The accused pleaded not guilty, was found guilty and was sentenced to be severely reprimanded.

3. The JAG has certified that the proceedings are regular, the finding properly made and the sentence according to law.

4. I am of the opinion that the finding and sentence are just and I recommend their confirmation.

5. Your signature to the submission is recommended.

(W.H.S. Macklin),
Major-General,
Adjutant-General.

NQC 55-B-3893 (JAG/O)

SEP 20 1949

10th September, 1949.

TO:

HIS EXCELLENCY

THE GOVERNOR GENERAL IN COUNCIL

The undersigned has the honour to state the Adjutant General reports that:

(a) ZC 110 Lt. Wilfrid Emile Brousseau, Royal Canadian Infantry Corps, an Officer of the Canadian Army (Active Force) was tried by General Court Martial held at Camp Borden, Ontario, on the 30th day of August, 1949, on the following charge:

CHARGE
Sec 15(1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Camp Borden, Ontario, absented himself without leave from 0900 hours, 2 Aug 49 until 1400 hours, 8 Aug 49.

(b) The accused officer pleaded not guilty, was found guilty and sentenced to be severely reprimanded.

(c) The Judge Advocate General has certified that the proceedings are in order, the finding supported by the evidence and the sentence according to law.

(d) The Adjutant General recommends that the findings and sentence of this Court be confirmed.

2. The undersigned concurs in the foregoing report and has the honour to submit the same under the Militia Act for the consideration of Your Excellency.

Respectfully submitted,

Original Signed by
Brooke Claxton

MINISTER OF NATIONAL DEFENCE.

AG sign at folio 5.

AG initial at folio 3.

Minister sign at folio 4.

Minister initial at folio 1.

DIRECTORATE OF
ARMY
SEP 20

CANADA

In reply quote No. HQC 55-B-3693 (Adm B2)

DEPARTMENT OF NATIONAL DEFENCE
ARMY
INTER-OFFICE CORRESPONDENCE

10 Sep 49.

TO: A.G.

G.C.M. - ZC 110 Lt Wilfrid Emile Brousseau

Herewith for your signature if you concur is a submission addressed to the Minister recommending that the Governor General in Council confirm the finding and sentence of the GCM of Lt. Wilfrid Emile Brousseau.

2. This officer was tried by a GCM held at Camp Borden, Ontario on 30 Aug 49 on a charge of absence without leave, Section 15(1) A.A.

3. Lt W.E. Brousseau pleaded not guilty, was found guilty and was sentenced to be severely reprimanded.

4. The office of the JAG has certified that the proceedings are regular, the finding properly made and the sentence according to law.

5. This Directorate is of the opinion that there are no irregularities or illegalities in relation to this GCM which would warrant withholding confirmation of the finding and sentence.

(J.W. Bishop),
Colonel,
Director of Administration.

RECEIVED IN THE OFFICE
SEP 17 1949
OF THE DEFENCE SECRETARY

M.F.A. 1325
1,000M—5-48 (9995)
H.Q. 5772-39-2009

HQS 55-B-3593 (Adm B2)

CONFIDENTIAL

10 Sep 49

TO: The Minister

GCM - Lt W.E. Brousseau

The attached submission to the Governor General in Council forwards a recommendation requesting His Excellency to confirm the finding and sentence of the G.C.M. of 2C 110 Lt Wilfrid Emile Brousseau held at Camp Borden, Ontario on 30 Aug, 49.

2. Lt W.E. Brousseau was tried on one charge of AWL as set out in the submission attached hereto. The accused pleaded not guilty, was found guilty and was sentenced to be severely reprimanded.

3. The JAG has certified that the proceedings are regular, the finding properly made and the sentence according to law.

4. I am of the opinion that the finding and sentence are just and I recommend their confirmation.

5. Your signature to the submission is recommended.

(W.H.S. Macklin),
Major-General,
Adjutant-General.

H.Q.C. 55-B-3693 (JAG/O)

SEP 20 1949

OTTAWA, ~~September 10, 1949.~~

TO:

HIS EXCELLENCY

THE GOVERNOR GENERAL IN COUNCIL

The undersigned has the honour to state that the Adjutant-General reports that:

(a) ~~ZC~~ 110 Lt. Wilfrid Emile Brousseau, Royal Canadian Infantry Corps, an Officer of the Canadian Army (Active Force) was tried by General Court Martial held at Camp Borden, Ontario, on the 30th day of August, 1949, on the following charge:

CHARGE
Sec 15(1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Camp Borden, Ontario, absented himself without leave from 0900 hours, 2 Aug 49 until 1400 hours, 8 Aug 49.

(b) The accused officer pleaded not guilty, was found guilty and sentenced to be severely reprimanded.

(c) The Judge Advocate General has certified that the proceedings are in order, the finding supported by the evidence and the sentence according to law.

(d) The Adjutant-General recommends that the findings and sentence of this Court be confirmed.

2. The undersigned concurs in the foregoing report and has the honour to submit the same under the Militia Act for the consideration of Your Excellency.

Respectfully submitted,

Original Signed by
Brooke Claxton

MINISTER OF NATIONAL DEFENCE.

In reply quote No. HQC 55/5-3593 (JAG/O)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

INTER-OFFICE CORRESPONDENCE

THE OFFICE OF THE JUDGE ADVOCATE GENERAL

September 8th, 1949.

TO: Adjutant General

ZC 110 Lt. Wilfrid Emile Brosseau
R.C.S. of I.

The marginally noted was tried by General Court Martial at Camp Borden, Ontario, on 13th August, 1949, on a charge of absenting himself without leave from 2nd August, 1949, until 8th August, 1949. He pleaded not guilty, was found guilty and was sentenced to be severely reprimanded.

After review of proceedings, I hereby certify that they are in order from a legal standpoint, the finding supported by the evidence and the sentence according to law.

Submitted herewith for consideration is a draft submission to the Governor in Council for confirmation of the findings and sentence.

R. J. Orde

(R. J. Orde) Brigadier
Judge Advocate General.

M.F.A. 1376
1,000M—5-43 (2995)
H.Q. 1772-39-2009

IN REPLY PLEASE QUOTE No. CGC/ZC 110 (CIC ADM)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

HEADQUARTERS CENTRAL COMMAND

Ortona Barracks,
OAKVILLE, Ontario.

CONFIDENTIAL

31 AUG 49

Referred ...

SEP 7 1949

File No. 055-B-3593

d to ...

Office of the Judge Advocate-General,
Department of National Defence,
OTTAWA, Ontario.

GENERAL COURT-MARTIAL
ZC 110 Lieutenant Wilfred Emile Brosseau
The Royal Canadian School of Infantry

1 In accordance with KR (Can) 575(a) the marginally noted proceedings are forwarded for Confirmation by the Governor-in-Council.

2 This Headquarters recommends that the proceedings should be confirmed, provided they are found to be in order.

(C Vokes) Major-General
GOC Central Command

Enc

NAT. DEF. B. 445
2000M—7-43 (931)
H.Q. 1772-39-767

H.Q.C. 55-B-3594 ARMY CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

DISTRICT COURT MARTIAL

BOURDON, JOHN HERBERT ADRIAN SB 153520 PTE

CONFIDENTIAL
H.Q.C. 55-B-3594

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
				JAG	NEW FILE CR SEP 28 1949		
OCT 8 1949	7 10/49	PA		Equ. D Admin	Tonote & PA	[illegible]	30 9/49
				~~PA~~			
NOV 7 - 1949	5 Nov 49	PA	[illegible]	D Admin	PER REQUEST CR NOV 5 1949		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for [illegible] or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices [illegible] opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-Bp3594 (JAG/O)

DIRECTORATE OF ADMINISTRATION
ARMY
SEP 30 1949
OTTAWA
CANADA

XXXXXX
THE OFFICE OF THE JUDGE ADVOCATE GENERAL

September 30th, 1949.

I

Headquarters,
Central Command,
Ortona Barracks,
OAKVILLE, Ontario.

District Court-Martial
SB 153520 Pte.BOURDON,J.H.A.
RCR

Receipt is acknowledged of your CC/SB 153520 (J) dated September 24th, 1949, enclosing proceedings of the marginally noted District Court Martial.

2. These proceedings were entered in our records as No. 47128 on 29 September, 1949.

Recorded
5 Nov. 49
D Campbell
8/54

WMWS

(W.M.W. Shaw) Lt.-Col.
Deputy Judge Advocate General.

WMWS/ML
4923
7/10/49

II
Noted,
No Administrative Action
deemed necessary
E Jeniwaski Capt
for "D" Adm

H.Q. C.55-B-3594
M.D.

MEMORANDUM - DISTRICT COURT-MARTIAL

No. SB 153520 Name BOURDON, J.H.A.

Rank Pte Unit Royal Canadian Regiment

Charge AA 15(1) - Absenting Himself Without Leave - absent from 1745 hrs 15 June 1949 to 1245 hrs 4 August 1949 (Surrendered)

Date of Crime 15 June 1949

Date of Arrest 4 August 1949 Charge Signed 12 August 1949

Orders for D.C.M. 16 August 1949

Place and Date of Trial Barriefield, Ontario, 18 August 1949

Sentence Sixty days detention

Date of Confirmation 3 September 1949

Date of Promulgation 10 September 1949

Entered in Records of J.A.G. as No. 47128

Date 29 September 1949

MEMO Accused found guilty of charge.

W.W.W. Shaw Lt-Col

for Judge Advocate-General

CC/SB 153520 (J)

HEADQUARTERS CENTRAL COMMAND

Ortona Barracks,
OAKVILLE, Ontario.

24 SEP 49

.... REGISTERED

Office of the Judge Advocate General,
Dept. of National Defence,
OTTAWA, Ontario.

SEP 27 1949
File No

DISTRICT COURT -MARTIAL
SB 153520 Pte. BOURDON J.H.A. RCR

Herewith the marginally-noted District Court-Martial proceedings, for registration and custody.

2 No administrative action is deemed necessary by this Headquarters.

(C. Vokes) Major-General
G.O.C., Central Command

Enc.

FORM OF PROCEEDINGS FOR THE

DISTRICT COURT MARTIAL

OF

SB 153520 Pte BOURDON J H A, RCIC

THE ROYAL CANADIAN REGIMENT

CANADIAN ARMY (AF).

MEDICAL OFFICER'S REPORT

I certify that No. SB 153520 Pte BOURDON J H A

of the Royal Cdn Regt is in a good state of health,

and fit to undergo Trial by Court martial.

J W McDougall
Medical Officer
(J W Mc DOUGALL) Doctor

Station BROCKVILLE, Ontario

Date 18 AUG 49

M. F. B. 246

25M—2-43 (8325)
H.Q. 1772-39-480

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

A

**Form of Proceedings for [redacted] District Courts-Martial

Proceedings of a District Court-Martial held at RCEME School, on the 18th day of August 19 49 by order of Brigadier G Walsh CBE DSO Commanding Eastern Ontario Area dated the 16th day of August 19 49.

ZD 974 Major C E Gernaey RCOC President.
26 Central Ordnance Depot RCOC

Members.

ZP 1722 Captain G A Wry RCASC
3 Coy RCASC

ZP 1815 Captain K C Pennie RCA
128 HAA Bty RCA

~~, Judge Advocate~~

Trial of* SB 153520 Private John Herbert Adrian BOURDON, RCIC, The Royal Canadian Regiment.

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,† ZB 230 Lt J D Atkinson RCIC, RCR

[redacted] or defending officer† ZP 2810 Lt H G Cloutier RCIC, RCR

At 1330 hours the Trial commences.

The order convening the Court is read, and is marked X 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.

Q 1 *Question by the President to the accused.* Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

A 1 *Answer by accused.* No, Sir. (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, Unit, Attachment (if any), and Appointment (if any).

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

‡ Qualification to be stated.

(Strike out and initial when not applicable.)

*I have satisfied myself that none of the officers detailed as members of this Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the charge [redacted] before the Court-Martial.

PRESIDENT, DCM

CAFB 271
3M—3-49 (2090)
H.Q. 224-21-B-271

B

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

Q 2 Do you object to SB 166302 L Cpl Leask H W J, RCIC, RCR acting as shorthand writer? Answer No, Sir. I do Not. *Question to the accused.*

A 2

SB 166302 L Cpl Leask H W J, RCIC, RCR is duly sworn as shorthand writer.

~~The following officers under instruction, having been duly detailed, are duly sworn.~~

Charge-Sheet

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

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

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

Q 3 Is that your number, rank, name and unit? *Question to the accused.*

A 3 Yes, Sir it is. *Answer.*

Q 4 Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read? *Question to the accused.*

A 4 Guilty, Sir. *Answer.*

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

Answer.

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

Answer.

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

Answer.

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 Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

B 2

"B 2"

(CE GERNAEY) Major
President, D C M

CHARGE SHEET

The accused, SB 153520 Private John Herbert Adrian BOURDON, The Royal Canadian Regiment, a soldier of the Canadian Army (Active Force) is charged with:-

First Charge
Section 15 (1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Brockville, Ontario at 1745 hours 15 JUN 49 absented himself without leave from The Royal Canadian Regiment until he surrendered himself to SB 62543 Lance Corporal Gazley C E at Brockville, Ontario at 1245 hours 4 AUG 49. The accused was sober and properly addressed. Total time absent 49 days, 19 hours.

(P R BINGHAM) Lt. Colonel
Commanding,
THE ROYAL CANADIAN REGIMENT

BROCKVILLE, Ontario

12 AUG 49.

TO BE TRIED BY DISTRICT COURT-MARTIAL

(G Walsh) Brigadier
Commander
Eastern Ontario Area

KINGSTON Ontario
16 AUG 49

(This page to be removed from proceedings when plea to all charges is Not Guilty.)

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded 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 SB 153520 Private John Herbert Adrian BOURDON, RCIC, RCR.
is found guilty of the charge

Q 5 *Question to the accused.* Do you wish to make any statement in reference to the charge~~(s)~~?

A 5 *Answer.* No, Sir. I do not.
~~The accused in reference to the charge(s) says:~~

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

*The summary ~~(or abstract)~~ of evidence is read, marked "C" 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.

PRESIDENT

DD

Q 6 Do you wish to make any statement in mitigation of punishment? *Question to the accused.*

(The accused in mitigation of punishment [redacted] hands in a written statement, which is read, marked "D" , signed by the President, and attached to the proceedings) *Answer.*

A 6 Yes, Sir. I do.

Q 7 Do you wish to give evidence yourself or to call any witnesses as to character? *Question to the accused.*

A 7 No, Sir. I do not. *Answer.*

Evidence as to character.

1

(PRESIDENT D Cdn)

E

Finding*

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

~~The Court is closed for the consideration of the finding.~~

The Court find that the accused

ANNOUNCEMENT OF FINDINGS

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

The finding(s) is (are) read in open court and except the finding(s) of "Not Guilty" is (are) announced as being subject to confirmation.

Proceedings on Conviction *before Sentence*

ZB 230 Lt J D Atkinson RCIC, RCR is duly sworn.

Evidence of character, etc.

Have you any evidence to produce as to the character and particulars of service of the accused?

Q 8 *Question by the President.*

A 8 *Answer by the Witness.* Yes, Sir. I produce MFB 355 and certified copy of MFM 6 relating to the accused. ~~The above statement [with the schedule of convictions and of casualties which trial has been dispensed with]~~ is read, marked "Y", signed by the "Y I" President, and annexed to the proceedings.

Q 9 *Question by the President.*

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

A 9 *Answer by the witness.* Yes, Sir, he is.

Q 10 *Question.*

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

A 10 *Answer.* Yes, Sir, I have.

Q 11 *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?

A 11 *Answer.* Yes, Sir, they are.

~~Cross-examined by the Defending Officer (accused) (Counsel for the accused).~~

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

Q 12 *Question to the accused.*

Do you wish to address the Court?

A 12 *Answer.* No, Sir, I do not.

The Court is closed for the consideration of the sentence.

F

Sentence

The Court sentence the accused *Sentence.*

SB 153520 Private John Herbert Adrian BOURDON, RCIC, RCR) 60 Days
to undergo detention for sixty (60) days.) DETENTION

The sentence is subject to confirmation.)

Announcement of Sentence

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

The sentence ~~(and recommendation)~~ is ~~(are)~~ announced in open Court; the sentence is announced as being subject to confirmation.

Signature

Signed at RCEME School, Barriefield, Ontario

this 18th day of August A.D. 19 49.

Judge Advocate

C E Gernaey
President
(C E GERNAEY) Major

Extracts entered as No. 47138 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 7th day of Sept 1949

Confirmation

I confirm the sentence of the court.

Signed at Kingston, Ontario

this 3rd day of Sept A.D. 1949.

J Meech, Lt Col
A/Cmd E.O.A.

Promulgation

Promulgation and extracts taken at BROCKVILLE, Ontario

this 10 day of September A.D. 19 49

(L W G HAYES) Lt.
Acting Adjutant,
THE ROYAL CANADIAN REGIMENT

9

"X"

(C E GERNAEY) Major
President, D C M

Orders by Brigadier G Walsh CBE DSO Commanding

the Eastern Ontario Area

District Court-Martial

SB 153520 Private BOURDON, John Herbert Adrian
Royal Canadian Regiment

16th August 1949

The detail of Officers as mentioned below will assemble

at RCEME School, Barriefield, Ont on Thursday

the 18th day of August 1949 at 1000 hours

for the purpose of trying by a District Court-Martial the accused person (persons) named in the margin (and such other person or persons as may be brought before them).

PRESIDENT

ZD 974 Major C E Gernaey RCOC
26 Central Ordnance Depot RCOC is appointed President.

MEMBERS

ZP 1722 Captain G A Wry RCASC
3 Coy RCASC
ZP 1815 Captain K C Pennie RCA
128 HAA Bty RCA

WAITING MEMBERS

ZP 1350 Lieutenant X W Boucher RCIC
Royal Canadian Regiment
ZB 576 Lieutenant H W Young RCIC
Royal Canadian Regiment

JUDGE ADVOCATE

---- ~~has been (is hereby) appointed~~

~~Judge Advocate~~

PROSECUTOR

ZB 230 Lieut J D Atkinson RCIC ~~has been~~ (is hereby) appointed
Prosecutor. Royal Canadian Regiment

DEFENDING OFFICER

ZP 2810 Lieut H G Cloutier RCIC ~~has been~~ (is hereby) appointed
Defending Officer. Royal Canadian Regiment

The accused will be warned and all witnesses duly required to attend.

The Officer Commanding, Royal Canadian Regiment will arrange for the necessary ~~accommodation~~ stationery, court orderly, escort, shorthand writers, and interpreters.

The proceedings will be forwarded to HQ E Ont Area

Signed this 16th day of August 1949

M.F.B. 220
A.F.A. 47
25M—7-43 (1152)
H.Q. 5772-39-564

(G Walsh) Brigadier
Commander
Eastern Ontario Area

11 "C"

SUMMARY OF EVIDENCE (C E GERNAEY) Major
President, D C

in the case of

SB 153520 Private John Herbert Adrian BOURDON, The Royal Canadian Regiment, a soldier of the Canadian Army (Active Force).

CHARGE:

ABSENTING HIMSELF WITHOUT LEAVE

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

FIRST WITNESS

ZC 3120 Lt L W G HAYES, The Royal Canadian Regiment, having been duly sworn, states:-

I am the Acting Adjutant, The Royal Canadian Regiment, Canadian Army (Active Force) and have held this appointment since 15 JUL 49. As Acting Adjutant, I have the custody of the Regimental Books of this Unit and the documents of the accused whom I now recognize as SB 153520 Private John Herbert Adrian BOURDON, The Royal Canadian Regiment, Canadian Army (Active Force).

I produce the following documents, all referring to the accused, Pte Bourdon.

(1) MFB 375, being certified true copy of the Record of the Court of Inquiry inquiring into the absence of the accused and duly certified by me as Acting Adjutant and officer having custody of the original document.

(2) Certificate of apprehension of the accused, in accordance with AA 163 (1) (j), purporting to be signed by L/Cpl GAZLEY C E, The Royal Canadian Regiment, Brockville, Ontario.

(3) Certified true copies of Part II Orders No 70 dated 17 JUN 49, No 72 dated 24 JUN 49, No 78 dated 9 JUL 49, No 83 dated 27 JUL 49 and No 88 dated 12 AUG 49 reflecting AWL entries of the accused.

MFB 375 is marked as "A"; Certificate of Apprehension is marked as "B"; and certified true copies of Part II Orders of The Royal Canadian Regiment are marked as "C"; signed by the officer taking the Summary of Evidence and attached to the Summary of Evidence.

The accused declines to cross-examine.

(L W G HAYES) Lieutenant
A/Adjutant
THE ROYAL CANADIAN REGIMENT

QUESTIONS TO THE ACCUSED

Do you wish to make any statement or 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.

ANSWER BY THE ACCUSED

I have nothing to say.

I certify that the foregoing Summary of Evidence of two (2) pages was taken down by me in the presence of the accused at Brockville, Ontario this 12th day of August 1949 and that the Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

John D. Atkinson

(J D ATKINSON) Lieutenant
THE ROYAL CANADIAN REGIMENT
CDN ARMY (AF)

APPENDIX "A"

John W Atkinson

([illegible] D ATKINSON) Lieutenant a Court of Inquiry assembled at BROCKVILLE, Ontario
THE ROYAL CANADIAN REGIMENT
CDN ARMY (AF) y 1949, 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. SB 153520 Private BOURDON, John Herbert Adrian

DECLARATION

The Court declare that No. SB 153520 (Regt'l No.) PTE (Rank)
John Herbert Adrian BOURDON (Full Name) The Royal Canadian Regiment, Cdn Army (AF) (Unit)
illegally absented himself without leave from The Royal Canadian Regiment Cdn Army (AF)
at BROCKVILLE, Ont (Place) at 1745 hours on the 15th day of June 49,
that he is still so absent, and that on the 9th day of July 1949 he was deficient, and
that he is still deficient of the following articles:—

ARTICLES		VALUE		ARTICLES		VALUE	
Badges Cap RCR	(1)		07	Jackets Summer Worsted	(1)	18	49
Bags Kit	(1)	1	60	Trousers Summer Worsted	(1)	6	93
Berets Khaki	(1)	1	14	Combs Hair	(1)		04
Boots Ankle	(1)	5	54	Drawers Cotton Short	(2)		80
Braces	(1)		26	Holdalls	(1)		21
Brasses button	(1)		04	Neckties Black	(1)		26
Brushes Boot polishing	(1)		20	Overalls Combination	(1)	2	40
Brushes Button Polishing	(1)		11	Puttees Short prs	(1)		50
Brushes Cloth Polishing	(1)		16	Razors Safety sets	(1)		40
Brushes Hair	(1)		37	Shirts under cotton	(2)		80
Brushes Shaving	(1)		40	Shirts khaki Cotton	(2)	3	72
Buckles Brass	(1)		06	Singlets Gym	(2)		80
Socks Army Prs	(4)	1	76				
Socks Black prs	(2)		52				
Towels hand	(1)		30				
Trousers khaki Drill L	(2)	3	42				
Trousers khaki Drill S	(2)	2	50				
Belts Waist Patt 37	(1)		72				
Bottles Water	(1)		62				
Basins Tin	(1)		20				
Sheets GS	(1)	1	33				
TOTAL		56	67				

(Sgd) W SNELL LT RCR President
(Name) (Rank) (Unit)

Member
(Name) (Rank) (Unit)

Member
(Name) (Rank) (Unit)

Signed at BROCKVILLE, Ontario

this 9th day of July 19 49

(Sgd)
Signature of Commanding Officer F R BINGHAM LT.COLONEL RCR
(Name) (Rank) (Unit)

Certified true copy
(Signature of Officer having custody of original record)
(L W G HAYES) Lt. A/Adjutant R.C.R.

M.F.B. 875

APPENDIX "B"

(J D ATKINSON) Lieutenant
THE ROYAL CANADIAN REGIMENT
CDN ARMY (AF)

CERTIFICATE UNDER ARMY ACT, SECTION

163 (1) (i)

I, ZP 1537 Lt Col P R BINGHAM, Commanding Officer The Royal Canadian Regiment, hereby certify that SB 153520 Private John Herbert Adrian BOURDON of the Royal Canadian Regiment surrendered himself to SB 62543 L/Cpl GAZLEY C E the Royal Canadian Regiment at 1245 hrs on the 4th day of August 1949 at Brockville, Ontario as a deserter. The deserter was sober and properly dressed in uniform.

(P R BINGHAM) Lt. Colonel
Commanding,
THE ROYAL CANADIAN REGIMENT

BROCKVILLE, Ontario.

12 AUG 49.

PART II ORDERS

THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)

PUBLISHED BY

LT.COLONEL P R BINGHAM

COMMANDING OFFICER

APPENDIX "C"

(J D ATKINSON) Lieutenant
THE ROYAL CANADIAN REGIMENT
CDN ARMY (AF)

This Order No 70
Dated 17 Jun 49
Place: BROCKVILLE
Ontario

(Last Order No 69 d/14 Jun 49)

12 ABSENCE WITHOUT LEAVE

(e) AWL from 1745 hrs

SB 153520 PTE BOURDON J H A RCIC 15 JUN 49

for (Sgd) J A JOHNSTON CAPT

(E R FRIEL) CAPTAIN& ADJUTANT
THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)
BROCKVILLE, Ontario

CERTIFIED TRUE EXTRACT:

(L W G HAYES) Lieutenant
A/Adjutant
THE ROYAL CANADIAN REGIMENT

PART II ORDERS

THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)

PUBLISHED BY

LT.COLONEL P R BINGHAM

COMMANDING OFFICER

This Order No 72
Dated 24 Jun 49
Place: BROCKVILLE
Ontario

(Last Order No 71 d/21 Jun 49)

9 ABSENCE WITHOUT LEAVE

(a) Still absent 1745 hrs
(8th dy)

SB 153520 PTE BOURDON J H A RCIC 23 JUN 49

for (Sgd) J A JOHNSTON CAPT
(E R FRIEL) CAPTAIN & ADJUTANT
THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)
BROCKVILLE, Ontario

CERTIFIED TRUE EXTRACT:

(L W G HAYES) Lieutenant
A/Adjutant
THE ROYAL CANADIAN REGIMENT

PART II ORDERS

THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)

PUBLISHED BY

LT.COLONEL P R BINGHAM

COMMANDING OFFICER

This Order No 78
Dated 9 Jul 49
Place: BROCKVILLE
Ontario

(Last Order No 77 d/7 Jul 49)

8 ABSENCE WITHOUT LEAVE

(a) Still absent 1745 hrs (22nd dy)

SB 153520 PTE BOURDON J H A RCIC 7 Jul 49

for (Sgd) J A JOHNSTON CAPT
(E R FRIEL) CAPTAIN & ADJUTANT
THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)
BROCKVILLE, Ontario

CERTIFIED TRUE EXTRACT:

(L W G MYES) Lieutenant
A/Adjutant
THE ROYAL CANADIAN REGIMENT

PART II ORDERS

THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)

PUBLISHED BY

LT.COLONEL P R BINGHAM

COMMANDING OFFICER

This Order No 83
Dated 27 Jul 49
Place: BROCKVILLE
Ontario

(Last Order No 82 d/22 Jul 49)

18 STRENGTH DECREASE

(c) SOS deserter having been declared illegally absent from 1745 hrs 15 Jun 49 by a Ct of Inq held 9 Jul 49. Deficiencies of kit to the amount of $56.67

SB 153520 PTE BOURDON J H A RCIC 9 Jul 49

(Sgd) L W G HAYES LT
for
(J A JOHNSTON) CAPTAIN & ADJUTANT
THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)
BROCKVILLE, ONTARIO

CERTIFIED TRUE EXTRACT:

(L W G HAYES) Lieutenant
A/Adjutant
THE ROYAL CANADIAN REGIMENT

PART II ORDERS

THE ROYAL CANADIAN REGIMENT, CDN ARMY (AF)

PUBLISHED BY

LT.COLONEL P R BINGHAM

COMMANDING OFFICER

This Order No 88
Dated 12 Aug 49
Place: BROCKVILLE
Ontario

(Last Order No 87 d/10 Aug 49)

2 STRENGTH INCREASE

(a) TOS on rejoining at 1245 hrs

SB 153520 PTE BOURDON J H A RCIC 4 AUG 49

(Sgd) L W G HAYES LT.

for

(J A JOHNSTON)
THE ROYAL CANADIAN REGIMENT CDN ARMY (A
BROCKVILLE, Ontario

(CERTIFIED TRUE EXTRACT:

(L W G HAYES) Lieutenant
A/Adjutant
THE ROYAL CANADIAN REGIMENT

I, SB 153520 Private John Herbert Adrian BOURDON, desire to have an officer defend me at my trial by District Court Martial.

I desire the services of ZP 2810 Lt H G CLOUTIER RCR if he is available.

J. A. Bourdon.

(SB 153520 Pte BOURDON J H A)

BROCKVILLE, Ontario.

12 AUG 49.

"D"

(C E GERMAEY) Major
President, D C M

PLEA OF MITIGATION
SB 153520 Pte. BOURDON J H A

First of all gentlemen we must remember that the accused, Pte Bourdon, is very young in the service and to understand him we must begin at his first enlistment.

When he enlisted he requested that the Personnel Officer enlist him in the RCASC and this was refused because he lacked the standard education required in the RCASC.

The accused, Pte Bourdon, comes from a French Canadian family and he asked on enlistment if he could be posted to Quebec. He was promised by the Recruiting Officer that this could be done by enlisting in the RCIC and on completion of basic training he would be posted to the Royal 22nd Regiment.

This promise was fulfilled when at Camp Borden on the completion of six (6) weeks GMT he was posted to the Royal 22 Regiment.

However he was posted to the Royal 22nd Regiment with a group of English personnel who after their arrival at the Royal 22nd Regiment caused a good deal of trouble because they could not speak French.

To quell the trouble the Royal 22 Regiment decided to transfer these personnel to English speaking Regiments. Pte Bourdon was with this group.

Pte Bourdon requested permission to remain with the Royal 22nd Regiment in order to be nearer home and stated that he did not wish to be posted to The Royal Canadian Regiment.

Pte Bourdon's request was refused and he was posted to The Royal Canadian Regiment and to make matters worse he was transferred to a Recruit's Company. This built up ill feeling in Pte Bourdon's mind and he came to believe he was being pushed around.

Pte Bourdon requested to be sent back to the Royal 22nd Regiment and was refused and with this in mind he went absent without leave.

Sometime during his absence without leave Pte Bourdon realized that he had made a mistake and returned to his unit sober and properly dressed.

Since his return from absence without leave Pte Bourdon has been under close arrest for fourteen (14) days awaiting District Court Martial.

"Y"

(C E GERNAEY) Major
President. D C M

M.F.B. 355
75M—5-43 (1451)
H.Q. 1772-39-620
A.F.B. 294

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
SB 153520	Private	John Herbert Adrian BOURDON	R C R

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

	Within last 12 months		Since enlistment or appointment	
For	AA Sec 15 (1) Three (3)	times	AA Sec 15 (1) Three (3)	times
For	AA Sec 15 (2) Two (2)	times	AA Sec 15 (2) Two (2)	times
For	AA Sec 40 Four (4)	times	AA Sec 40 Four (4)	times
For		times		times

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

or,

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

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

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court martial or a civil court, of summary awards under Section 47 of the Army Act, ~~Air Force Act~~ and dispensations with trial under A.A. 78 are set out in the Schedule annexed to this statement.~~

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

or,

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

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in ~~Air Force~~ civil custody, and 13 days in military custody, making a total of 13 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 18 years 8 months

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 27 SEP 48

7. The service which the accused is allowed to reckon towards discharge is 10 months 20 days

8. The accused is entitled to reckon 9 months 19 days service for the purpose of determining his pension, etc.

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

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

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

Permanent Force
unit
.....dated....., and in his regiment (or corps) the rank of

.....dated.....

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

.....Date of promotion.

In the rank of .....years.

In the rank of .....years.

In the rank of .....years.

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

SCHEDULE

Air Force
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: Number.....Rank.....

Unit
Name.....of.....Regiment

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

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

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 18 AUG 49 day of (L W G HAYES) Lt. & A/Adjutant R

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.

SR 153520

Reg. No. ..... Name BOURDON John Herbert Adrian Corps RCIC

Date of enlistment or enrolment 27 SEP 48

Date of Birth 3 JAN 31

Signature O.C. Company, etc. (Sgd) ????????? Major
6 Pers Depot

Sheet No. 2 of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
				Certified True Copy as of 18 AUG 49					
				(L W G HAYES) Lt. Acting Adjutant, THE ROYAL CANADIAN REGIMENT		"Y 1"			
						(C E GERVAEY) Major President, D C M			

M.F.M. 6—500M—4-45 (7784)
H.Q. 1772-39-1652

(P.T.O.)

Reg. No. SB 153520 Name BOURDON John Herbert Adrian Corps RCIC

Date of enlistment or enrolment 27 SEP 48 Date of Birth 3 JAN 23

Signature O.C. Company, etc. (Sgd) ????????Major
6 Pers Depot

Sheet No. 1 of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Camp Borden	4NOV 48	Pte		AA Sec 15 (2) AWL 4 days 18 hrs 7 minutes.	L Cpl LANDERS	7 days CB	10 NOV 48	Capt D M CREIGHTON	Forf 5 days pay
Camp Borden	14NOV 48	Pte		AA Sec 40 Conduct to the prejudice. (Laughing on defaulters pde)	Sgt LAPIERRE Cpl LANDERS	2 days CB	15 NOV 48	Capt A LEFEVRE	
Camp Borden	4DEC 48	Pte		AA Sec 15 (1) AWL 1 day 16 hrs.	L Cpl SEGUIN	5 days CB	6 DEC 48	Major A FEATHERSTONE	Forf 2 days pay
Camp Borden	7DEC 48	Pte		AA Sec 15 (1) AWL 1 day 30 minutes	Sgt BEDARD Sgt ROBERTS	14 days CB	9 DEC 48	Lt Colonel BUELL DSO	Forf 2 days pay (P.T.O.)

M.F.M. 6—500M—4-45 (7234)
H.Q. 1772-39-1652

[illegible]	[illegible]	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
[illegible] Jean P.Q.	1MAR 49	Pte		AA Sec 15 (1) AWL 8 days 4 hrs	Cpl CAYER Cpl PLANTE	9 days det	10 MAR 49	Major H TELLIER	Forf 9 days pay.
St Jean P.Q.	26MAR 49	Pte		AA Sec 40 Neglect to the prejudice. Kit was improper	Cpl ROCRAY	4 days CB	26 MAR 49	Capt L E CLERMONT	
Brockville, Ont	26APR 49	Pte		AA Sec 40 Conduct to the prejudice. Improper remark.	L Cpl G A APPLEBY	7 days CB	27 APR 49	Major CEC Mac NEILL	
Brockville, Ont	29APR 49	Pte		AA Sec 40 Conduct to the prejudice. Wrestling when told to to fall in for PT	Cpl RHODES	3 days CB	30 APR 49	Major CEC Mac NEILL	
Brockville, Ont	13JUN 49	Pte		AA Sec 15 (2).	Sgt Mac LEAN	7 days CB	14 JUN 49	Major CEC Mac NEILL	

...../3 (TUMBLE)

H.Q.C. C.55-B-3595 **CONFIDENTIAL**

M.P.R. 1378
25M—2-45 (6609)
H.Q. 301-1-83

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT ARMY

DISTRICT COURT MARTIAL

BRUNDRIT, JOHN, ROBERT, SK.63145, CPL.

CONFIDENTIAL
H.Q.C. C.55-B-3595

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
NOV 19 1949	18 11/49	PA	[illegible]	JAG D admin	NEW FILE CR NOV 7 1949 To note & PA	[illegible]	17 11/49

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-3595 (JAG/O)

xxxxx

THE OFFICE OF THE JUDGE ADVOCATE GENERAL

November 17th, 1949.

Headquarters,
Western Command,
Kingsway Avenue,
EDMONTON, Alberta.

District Court-Martial
SK 63145 Cpl. J.R.Brundrit
BC Area Sigs Sqn

Receipt is acknowledged of your WC/SK 63145 (A) dated 1 November, 1949, enclosing proceedings of the marginally noted District Court-Martial.

2. These proceedings were entered in our records as No. 47143 on 15 November, 1949.

(W. M. W. Shaw)
Lt. Col.
DJAG

NOV 17 1949

(W.M.W. Shaw) Lt.-Col.
for Judge Advocate General.

WMWS/ML

NOTED
[illegible]
for "D" Admin
18 11/49

Local 2898

H.Q. C.55-B-3595
M.D.

MEMORANDUM - DISTRICT COURT-MARTIAL

No. SK 63145 Name BRUNDRIT, John Robert

Rank Corporal Unit BC Area Signals Squadron

Charge AA 18(4) - Stealing Public Property
AA 18(4) - Stealing Public Property

Date of Crime (1) 29 April 1949; (2) 11 August 1949

Date of Arrest Charge Signed 25 September 1949

Orders for D.C.M. 26 September 1949

Place and Date of Trial Esquimalt, B.C., 28 September 1949

Sentence Reduced To The Ranks

Date of Confirmation 6 October 1949

Date of Promulgation 15 October 1949

Entered in Records of J.A.G. as No. 47143

Date 15 November 1949

MEMO Accused found guilty of both charges.

W.M.W.S.

(W. M. W. Shaw)
Lt. Col.
DJAG

NOV 16 1949

for Judge Advocate-General

WC/SK.63145 (A)

IN REPLY PLEASE QUOTE No.

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

Headquarters, Western Command,
EDMONTON, Alberta,
1 Nov 49

Army Headquarters,
OTTAWA, Ont.

DISTRICT COURT MARTIAL
SK.63145 Cpl. J. R. BRUNDRIT
BC Area Sigs Sqn

Herewith Proceedings of District Court-Martial held at RCSA (C&AA) 23 Sep 49 for SK.63145 Cpl. J. R. Brundrit, B.C. Area Sigs Sqn.

2. The accused was tried on two charges under AA Sec 18(4) "Stealing Public Property". He pleaded guilty to both charges and was sentenced to be reduced to the ranks.

3. The sentence was confirmed by the Commander, B.C. Area, and promulgated in Unit Part II Orders.

4. The comments made by the Defending Officer in his plea in mitigation have been noted, and action is being taken to rectify this situation by Command Signals Officer.

5. The Proceedings have been reviewed at Headquarters, B.C. Area, in accordance with CAO 62-3 and no administrative action is considered necessary.

(H. H. S. Penhale)
Major-General
General Officer Commanding
Western Command

NAT. DEF. B. 440

MEDICAL OFFICER'S CERTIFICATE

I certify that No. SK 63145 Cpl John Robert BRUNDRIT, BC Area Signal Squadron, Western Command Signal Regiment, RCCS, CA(AF) is #...fit..... to undergo trial by Court-Martial

(J.G.McKIE) M.D.

Insert "fit"or "unfit"

28 SEP 49
RCSA(C&AA)

J.A. Hilliard major
President DCM

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

A

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

Proceedings of a District Court-Martial held at Conference Room, Work Point Barracks, Esquimalt, B. C. on the 28th day of September 1949 by order of Brigadier M. P. Bogert DSO, OBE, Commanding B.C. Area Canadian Army dated the 23rd day of September 1949.

President.
ZB 118 Major J. A. Hilliard, RCSA (C&AA)

Members.
ZK 767 Captain D. K. Brown, 129 HAA Bty RCA

ZP 1667 Captain E. A. Lower, 217 Workshop RCEME

19850 Squadron Leader G. W. Brown, North West Air Command RCAF, Judge Advocate.

Trial of* SK 63145 Corporal John Robert BRUNDRIT, RCASC
BC Area Signal Squadron, Victoria Detachment.

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 [illegible] is not available to serve owing to [illegible], 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,† ZK 2503 Captain C. A. Coull, RCSA (C&AA)

~~Counsel‡ or~~ defending officer† ZC 2633 Captain B. L. Button, Area Personnel Officer, HQ B.C. Area

At 1030 hours the Trial commences.

The order convening the Court is read, and is marked X 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.

Q.1 *Question by the President to the accused.* Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

A.1 *Answer by accused.* No, sir.

(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, Unit, Attachment (if any), and Appointment (if any).

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

‡ Qualification to be stated.

~~I have satisfied myself that none of the officers detailed as members of this Court have previously served upon any Court of Inquiry upon the matters forming the subject of the charge (charges) before this Court-Martial.~~

(*Strike out and initial when not applicable.*)

CAFB 271
3M—3-49 (2090)
H.Q. 224-21-B-271

B

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

Q.2 Do you object to Miss N. C. Drury, Civil Servant of Victoria, B.C. acting as shorthand writer? *Question to the accused.*
A.2 Answer No, sir.

Miss N. C. Drury, Civil Servant of Victoria BC is duly sworn as shorthand writer.

~~The following officers under instruction, having been duly detailed, are duly sworn.~~

Charge-Sheet

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

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

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

SK 63145 Corporal John Robert Brundrit, Victoria Detachment, BC Area Signals Squadron, Western Command Signals Regiment, Royal Canadian Signals

Q.3 Is that your number, rank, name and unit? *Question to the accused.*
A.3 Yes, sir, however, my Corps is RCASC.

The Court being satisfied that the description of the accused should include his own Corps, viz RCASC, amend the Charge Sheet accordingly. *Answer.*

Q.4 Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

A.4 Guilty, sir. *Answer.*

Q.5 Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

A.5 Guilty, sir. *Answer.*

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

~~*Answer.*~~

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

~~*Answer.*~~

The accused having pleaded Guilty to both charges, 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 Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

B 2.

CHARGE SHEET

RCASC J.9H

The accused, SK 63145 Corporal John Robert BRUNDRIT, Victoria Detachment BC Area Signals Squadron, Western Command Signals Regiment, Royal Canadian Signals, which unit for the purpose of discipline is attached to the Royal Canadian School of Artillery, a soldier of the Canadian Army, Active Force, is charged with:-

STEALING PUBLIC PROPERTY

- in that he -

First Charge
Section 18 (4)
Army Act

at or near Victoria, British Columbia, on 29th April, 1949, stole approximately 260 pounds of lead, the property of the public.

STEALING PUBLIC PROPERTY

- in that he -

Second Charge
Section 18 (4)
Army Act

at or near Victoria, British Columbia, on 11th August, 1949, stole approximately 200 pounds of lead, the property of the public.

Fictoria, B.C.,
25 September, 1949.

A Perron
(A PERRON) Lt.Col.,
Commanding Officer,
Royal Canadian School of Artillery

TO BE TRIED BY DISTRICT COURT MARTIAL.

VANCOUVER BC
26 Sep 49

L J St Laurent
(L J St LAURENT) MAJOR
DAAG
FOR COMMANDER BC AREA
CANADIAN ARMY

J A Hilliard major
President D.C.M.

(This page to be removed from proceedings when plea to all charges is Not Guilty.)

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[~~The Court having been re-opened, the accused was again brought before it, and the charge to which he has pleaded "Guilty" was read to him again.~~]

The accused No.SK 63045 Corporal John Robert Brundrit, RCASC, Victoria Detachment B.C. Area Signals Squadron, Western Command Signals Regiment, RCS, is found guilty of both charges.

Q.6 *Question to the accused.* Do you wish to make any statement in reference to the charge(s)?

A.6 *Answer.* No, sir.

~~The accused in reference to the charge(s) says:~~

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

*The summary ~~(or abstract)~~ of evidence is read, marked "C" 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.

DD

Q.7 Do you wish to make any statement in mitigation of punishment? *Question to the accused.*

A.7 My defending officer will speak for me afterwards, sir.

~~The accused in mitigation of punishment says:~~ ~~(or hands in a written statement, which is read)~~ ~~, signed by the President, and attached to the proceedings)~~ *Answer.*

Q.8 Do you wish to give evidence yourself or to call any witnesses as to character? *Question to the accused.*

A.8 Yes, sir, I wish to call my Detachment Commander, Captain Coombe. *Answer.*

First Witness as to Character) ZP 1522 Captain Edwin George Coombe, Victoria Detachment B.C. Area Signals Squadron, Western Command Signals Regiment, R.C.C.S., being duly sworn, is examined by Defending Officer. *Evidence as to character.*

Q.9 Captain Coombe, will you tell the court what you know of the character and reputation of the accused, Corporal Brundrit?

A.9 I have known Corporal Brundrit since he reported to the detachment the latter part of January of this year. I have found him to be a very hard-working and conscientious soldier. He has been quite willing to dig in on any job that has come forward. He gets along well with the other members of the Detachment and I would be pleased to have him serve with me at any time. His conduct sheet is absolutely clear.

THE PROSECUTOR DECLINES TO CROSS-EXAMINE.

- - - In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P.83(B).

- - - THE WITNESS WITHDRAWS.

E

~~Finding*~~

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

The Court is closed for the consideration of the finding.

The Court find that the accused

ANNOUNCEMENT OF FINDINGS

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

The finding(s) is (are) read in open court and except the finding(s) of "Not Guilty" is (are) announced as being subject to confirmation.

Proceedings on Conviction *before Sentence*

Evidence of character, etc.

ZK Captain C. A. Coull, Royal Canadian School of Artillery, (C & A A) is duly sworn.

Q.10 *Question by the President.*

A.10

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes, sir, I have MFB 355.

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

Q.11 *Question by the President.*

A.11

Is the accused the person named in the statement which you have heard read? *Answer by the witness.* He is, sir.

Q.12 *Question.*

A.12

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes, sir.

Q.13 *Question.*

A.13

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.* They are, sir.

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

~~Cross-examined by the Defending Officer (accused) (Counsel for the accused).~~ THE DEFENDING OFFICER DECLINES TO CROSS-EXAMINE

- - - In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P.

- - - THE WITNESS RESUMES HIS SEAT.

Q.14 *Question to the accused.*

A.14 *Answer.*

Do you wish to address the Court?

I wish my Defending Officer to do so on my behalf. (See attached document marked "Z".)

The Court is closed for the consideration of the sentence.

F

Sentence

The Court sentence the accused No. SK 63145 Corporal John Robert BRUNDRIT, RCASC, Victoria Detachment B.C. Area Signals Squadron, Western Command Signals Regiment, Royal Canadian Signals, to be reduced to the ranks.

Sentence. Reduction to ranks

Announcement of Sentence

At 1530 hours The Court being re-opened the accused is again brought before it.

The sentence ~~(and recommendation)~~ is ~~(are)~~ announced in open Court; the sentence is announced as being subject to confirmation.

Signature

Signed at Esquimalt, British Columbia,

this 28th day of September A.D. 1949.

Judge Advocate

President

Confirmation

Confirmed

Signed at Vancouver B.C.

this Sixth day of October A.D. 1949.

Assured BC Area

Extracts entered as No. 47143 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 15th day of Oct 1949

Promulgation

Promulgation and extracts taken at Esquimalt, B.C.

this fifteenth day of October A.D. 1949.

E Stoombe Capt.

-3-

"X" J.J. Hilliard major
President D.C.M.

Orders by BRIGADIER M P BOGERT DSO OBE Commanding

the BC AREA CANADIAN ARMY

District Court-Martial

SK 63145 Corporal HRUNDRIT John Robert
BC Area Signal Sqn, Victoria Det
SK 2820 Corporal DOBISH Stephen
BC Area Signal Sqn, Victoria Det

23 September 194 9

The detail of Officers as mentioned below will assemble

at Conference Room, Work Point Barracks ESQUIMALT BC on Wednesday the 28th day of September 1949 at 1030 hrs for the purpose of trying by a District Court-Martial the accused [redacted] (persons) named in the margin (and such other person or persons as may be brought before them).

PRESIDENT

ZB 118 Major JA HILLIARD - RCSA (C&AA) is appointed President.

MEMBERS

ZK 767 Capt DK BROWN - 129 HAA Bty RCA
ZP 1667 Capt EA LOWER - 217 Workshop RCEME

WAITING MEMBERS

ZP 1544 Capt FL CAMERON - 129 HAA Bty RCA
ZP 1606 Lt JN ROBERTSON - HQ Western Command

JUDGE ADVOCATE

19850 Squadron Leader G W BROWN
North West Air Command RCAF
Judge Advocate is hereby appointed

PROSECUTOR

ZK 2503 Capt CA COULL - RCSA (C&AA)
Prosecutor [redacted] appointed

DEFENDING OFFICER

ZC 2633 Capt BL BUTTON - Area Personnel Officer HQ BC Area
Defending Officer [redacted] (is hereby) appointed

The accused will be warned and all witnesses duly required to attend.

The Officer Commanding, RCSA (C&AA) will arrange for the necessary accommodation, stationery, court orderly, escort, shorthand writers, and interpreters.

The proceedings will be forwarded to DAAG HQ BC AREA

Signed this 23rd day of September 194 9

M.F.B. 220
A.F.A. 67
2M—10-42 (6502)
H.Q. 1772-39-564

(L J St LAURENT) MAJOR
DAAG
FOR COMMANDER BC AREA
CANADIAN ARMY

"C"

J. A. Hilland
President DCM.

SUMMARY OF EVIDENCE

in the case of

NO. SK-63145 Corporal John Robert BRUNDRIT,
Victoria Detachment, BC Area Signal Sqn.,
Western Command Signal Regt., R.C.C.S.
charged with

1. STEALING PUBLIC PROPERTY

The CO directs that the evidence be taken on oath.

1st Witness NO. 15080 Constable Desmond Eugene HARRISON, Royal Canadian Mounted Police, being duly sworn, states:

I am NO. 15080 Constable Desmond Eugene HARRISON, Royal Canadian Mounted Police. On 25 Aug 49 Constable BYCE asked me to accompany him to Work Point Barracks, Esquimalt, B.C. We met Sjt Major STEVENS who took us to see Capt COOMBES whom Constable BYCE informed that he had received information to the effect that there had been some lead in the form of sheathing from telephone cables sold to the PAULIN PLUMBING AND HEATING CO., 1323 Government Street, Victoria, B.C. and it had been sold by a man in army uniform. We went back to Victoria and obtained a receipt from Mr. PAULIN. The receipt was signed by the name R JONES. Corporal BRUNDRIT later admitted that it was in his writin g. After further investigation I took statements from Corporal BRUNDRIT and Corporal DOBISH on the mornin g of 27 Aug 49 in which they admitted selling this metal on various occasions. The statements are now in our possession. There was also a cheque made out to Corporal DOBISH from the PITT AND HOLT PLUMBING AND HEATING CO. We also received the lead sheathing from PAULIN'S PLUMBING AND HEATING which we now have in our possession .

The accused declined to cross-examine.

D. E. Harrison .....Constable
Royal Canadian Mounted Police

2nd Witness NO. 11016 Constable Harold Kenneth BYCE, Royal Canadian Mounted Police, bein g duly sworn, states:

I am NO. 11016 Constable Harold Kenneth BYCE, Royal Canadian Mounted Police, stationed at Victoria. Acting on confidential information I visited PAULIN'S PLUMBING AND HEATING CO., 1323

Government Street, Victoria and examined a quantity of metal in the form of pipes. The pipes appeared to be a type used to cover telephone cable. Mr. PAULIN informed me that he had purchased the lead pipes from a soldier in uniform who delivered them to him in an army vehicle. He produced a receipt dated 11 Aug 49 showing purchase of 200 lbs used lead for $20.00 from R JONES. Subsequent investigation resulted in a statement being obtained from Corporal J R BRUNDRIT indicating that he was responsible for the sale of government material. I submit this statement from Corporal BRUNDRIT together with two receipts obtained from PAULIN'S, one signed BRUNDRIT, J.R., the other R JONES. Corporal BRUNDRIT also admitted in the presence of Constable HARRISON and Capt. COOMBE that he had signed the name R JONES to the receipt in question. The lead pipe was taken from PAULIN PLUMBING AND HEATING CO. and is in the possession of Constable HARRISON.

The accused declined to cross-examine.

..... Constable
Royal Canadian Mounted Police.

3rd Witness Mr. Harry Rennie PAULIN, owner of PAULINS, 1323 Government Street, Victoria, ~~having been~~ being duly sworn, states:

I am Harry Rennie PAULIN and was approached by two men who asked me if I wanted to purchase some scrap lead. I inquired from them the kind of lead it was and was told that it was bullet lead salvaged from the ranges. This class of lead being suitable to my work it was purchased by me from them.

At a later date I was again approached by one of these men re the purchase of more lead. On this occasion I was informed that the lead was salvage lead from signal cables. This lead was purchased by me.

The witness was cross-examined by Corporal BRUNDRIT as follows:

Q-1 Are you sure, Mr. PAULIN, that it was me who told you that it was bullet lead?

A-1 I could not be sure which man told me it was bullet lead.

(Sgd). ..... ~~Owner~~
PAULINS, Victoria, B.C.

4th Witness Mr. Albert William Percy PITT, part owner of PITT AND HOLT PLUMBING AND HEATING, Victoria, B.C., ~~having been~~ BEING duly sworn, states:

I am Mr. Albert William Percy PITT, part owner of PITT AND HOLT PLUMBING AND HEATING, Victoria, B.C. I have bought lead from various persons bringing in lead to sell to the firm of PITT AND HOLT. Anyone bringing in lead we have made a habit of getting a signature for cash payments or payments made by cheque.

The accused declined to cross-examine.

(Sgd).....Part Owner
PITT AND HOLT PLUMBING AND HEATING,
Victoria, B.C.

5th Witness No. ZP-1552 Captain Edwin George COOMBE, Officer Commanding, Victoria Detachment, B.C. Area Signal Sqn., Western Command Signal Regt, R.C.C.S., ~~having been~~ BEING duly sworn, states:

I am ZP-1552 Captain Edwin George COOMBE, Officer Commanding, Victoria Detachment, B.C. Area Signal Sqn, Western Command Signal Regt, R.C.C.S. On Friday, 26 Aug 49, I was visited by Constable BYCE and Constable HARRISON, R.C.M.P., who stated they had located a certain amount of lead sheathing in a Victoria firm which they believed to have been stolen and to have come from lead covered telephone cables. They asked if I had any knowledge of any sale to this firm. I stated I knew nothing of any sale of lead to that firm but on obtaining a discription of the sheathing I replied that it appeared to be sheathing from lead covered telephone cable which had disappeared from one of the reels in the cable shed at Signal Centre, which loss I had discovered on return to the unit on 15 Aug 49. I asked the R.C.M.P. Constables to make further checks with the firm to try and identify the person who disposed of the lead. The Constables returned on Saturday, 27 Aug 49 with receipts for monies paid out for sales of lead. One was signed by Corporal DOBISH, one by Corporal BRUNDRIT and one by the name JONES which Corporal BRUNDRIT later admitted to be his writing. The Constables asked if they could question Corporal DOBISH and Corporal BRUNDRIT, both of whom admitted sales of lead. In view of these findings a charge was placed against Corporal BRUNDRIT.

The witness was cross-examined by Corporal BRUNDRIT as follows:

Q-1 When you became aware that I was involved in the sale of this scrap, did you do anything to see if anybody else in Signal Centre was involved?

A-1 Yes. I asked the R.C.M.P. to make further checks.

Q-2 But you personally as my OC did nothing?

A-2 No. I left that entirely to the R.C.M.P.

Q-3 Is it true that until I was remanded by you to the Colonel you had not discussed this case with me?

A-3 No. When the R.C.M.P. were questioning you, I was present during the greater part of the period. I had asked before you made the statement to the police who else was involved and you replied that you would take full responsibility.

Q-4 At that time wasn't it made quite clear that there were others in volved even though I accepted the responsibility?

A-4 You implied that by your answer but investigation brought out only two names, Corporal DOBISH and Corporal BRUNDRIT.

Q-5 You still did nothing after the implied implication to find if others of your unit were involved?

A-5 Yes. We questioned Signalman HUMEN.

Q-6 Anybody else, Sir?

A-6 No.

Q-7 Sir, when I asked to be paraded to you after you had remanded me, didn't I say that the disposal of scrap lead had been going on long before I came to the unit?

A-7 Yes.

Q-8 Didn't I tell you that your Senior NCO's were also involved and you said you were not surprised?

A-8 No.

Q-9 Didn't I tell you that your Senior NCO's could also be involved and you said you were not surprised?

A-9 You told me my Senior NCO's could be involved.

Q-10 Didn't you tell me when I was paraded to you that I had a chance to name anybody else I wanted if they were implicated with me when the R.C.M.P. were there?

A-10 Yes.

Q-11 Didn't I tell you that in the Army I have always learned to speak to my OC or Adjutant before making any statement to civilian police?

A-11 No. You stated that affairs of this nature should be handled through army channels.

Q-12 But I did say that one should see his OC or Adjutant before making any replies to civilian police?

A-12 Yes.

Q-13 In trying to justify my actions in the sale of this scrap lead didn't I tell you that I couldn't see the difference between selling scrap lead or scrap batteries?

A-13 There was no mention made of scrap batteries.

Q-14 My exact words in this question (Q-13) were "I see no difference between scrap lead, scrap wood or scrap batteries and your reply was "Jack, the charge is scrap lead". Is that correct?

A-14 No.

Q-15 Are you sure that you are correct in this answer, Sir?

A-15 Yes.

Q-16 You do admit that I did mention other scraps?

A-16 Yes.

Q-17 But you can't recall what they were?

A-17 The words I remember were "other scrap"

Q-18 In regard to the work party that went to Nanaimo this spring in the charge of a Senior NCO and was visited by you, are you aware of what became of the scrap lead from that job when they took down the cable?

A-18 I know of no scrap lead from that job.

Q-19 But on a job of that kind there would be a certain amount of scrap, would there not?

A-19 There could be and there could not be. It depends on the work done.

Q-20 The cable in the cable shed where the loss was supposed to have occured, is checked by rough estimate, is that not so?

A-20 Some reels in the shed have never been opened since received from manufacturer. The lengths of cable on these reels is definately known. Other reels have had a certain amount of cable removed for different jobs and the remainder is shown as an approximate length.

Q-21 Any loss then would be an approximation?

A-21 Yes.

Q-22 Was the reel from which this cable was presumed to have disappeared, lagged?

A-22 Yes.

Q-23 Are you aware that there are two loose coils of lead covered cable lying in the shed marked "bad" and wouldn't it be logical that if I took any cable, wouldn't I take that instead of tearing the lagging off a reel?

A-23 Yes, I am aware of the presence of the two coils marked "bad". As to what would be taken would rest with the individual concerned.

Q-24 Wasn't there a Ssjt out from Vancouver to check the cable on the 7 Sep 49 and the loss in the cable shed was found to be negligable?

A-24 CQMS YATES came from Vancouver to check our holdings of cable and reels against his ledger and we found records to be correct with the exception of cable which I had discovered missing on 15 Aug 49.

Q-25 How much did you find missing?

A-25 I estimated the length at 100 feet.

Q-26 That figure was arrived at by guess work, was it not?

A-26 It was estimated.

Q-27 At the time of the reported loss wasn't the cable shed open above the gates to the height of at least four feet?

A-27 Yes.

Q-28 Have you ever, at any time, warned me personally or in a group about the sale of scrap lead?

A-28 I do not recall any such warning.

(Sgd)..C.Coombe.....Capt.
Officer Commanding,
Victoria Detachment,
B.C. Area Signal Sqn.,
Western Command Signal Regt.,
R.C.C.S.

6th Witness No. SH-28373 Signalman William HUMEN, Victoria Detachment, B.C. Area Signal Sqn., Western Command Signal Regt., R.C.C.S., ~~having been~~ duly sworn, states:

I am No. SH-28373 Signalman William HUMEN, Victoria Detachment, B.C. Area Signal Sqn., Western Command Signal Regt., R.C.C.S. On 27 Aug 49 I was questioned by two R.C.M.P. Constables in the presence of Captain COOMBE in regards to selling lead. They asked me if I had anything to do in the sale of lead chared against Corporal BRUNDRIT and Corporal DOBISH, to which I replied I did not. They asked me if I ever sold any lead and I replied that I, in the summer of 1947 sold $1.50 worth of lead which I received from the R.C.E.M.E. scrap pile.

The witness was cross-examined by Corporal BRUNDRIT, as follows:

Q-1 Isn't it a fact that when we are on a job that any bits of scrap lead we find are thrown in the truck and taken back to Signal Centre and just put in the line stores without any check on them?

A-1 Yes.

Q-2 Isn't it a fact that from time to time this lead referred to in the first question I asked you, disappears and while not knowing who took it, it is taken for granted that it was disposed of by someone from Signal Centre?

A-2 Yes.

(Sgd)W.H.Humen.....Sgmn,
Victoria Detachment,
B.C. Area Signal Sqn.,
Western Command Signal Regt.,
R.C.C.S.

7th Witness SK-35408 Sergeant Earle Dawson PALFREY, Victoria Detachment, B.C. Area Signal Sqn., Western Command Signal Regt., R.C.C.S. being duly sworn, states:

I am Sergeant Earle Dawson PALFREY, Victoria Detachment, B.C. Area Signal Sqn., Western Command Signal Regt., R.C.C.S. I heard about this case after I returned from Vernon on approximately 31 Aug 49. Captain COOMBE asked me to parade Corporal DOBISH and Corporal BRUNDRIT in to his office 6 Sep 49 and he read the charge. When Corporal BRUNDRIT was marched in Captain COOMBE read the charge and after the charge was read Corporal BRUNDRIT asked if he may see Captain COOMBE privately. I marched the escort out.

The witness was cross-examined by Corporal BRUNDRIT as follows:

Q-1 I asked for that interview with Captain COOMBE after he had remanded me to the Colonel. Is that correct?

A-1 Yes.

Q-2 Isn't it a fact that over a period of years scrap lead has been disposed of by the members of Signal Centre?

A-2 I have heard of that.

(SGD)....E.D. Palfrey....Sergeant
Victoria Detachment,
B.C. Area Signal Sqn.,
Western Command Signal Regt.,
R.C.C.S.

8th Witness SK-4273 Sergeant Robert John BECKER, Victoria Detachment, B.C. Area Signal Sqn., Western Command Signal Regt., R.C.C.S. being duly sworn, states:

I am SK-4273 Sergeant Robert John BECKER, Victoria Detachment, B.C. Area Signal Sqn., Western Command Signal Regt., R.C.C.S. I have heard about this case and that it was before the Colonel for his consideration.

The witness was CROSS-examined by Corporal BRUNDRIT as follows:

Q-1 Isn't it a fact that for a period of years scrap lead has been disposed of by members of Signal Centre?

A-1 Yes.

(Sgd).....Sergeant
Victoria Detachment,
B.C. Area Signal Sqn.,
Western Command Signal Regt.,
R.C.C.S.

QUESTION TO THE ACCUSED: "Do you wish to make any statement or 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."

ANSWER BY THE ACCUSED: The accused, SK-63145 Corporal John Robert BRUNDRIT, being duly sworn, states:

I am SK-63145 Corporal John Robert BRUNDRIT, stationed at Victoria Detachment, B.C. Area Signal Sqn., Western Command Signal Regt., R.C.C.S. I admit that on two occasions I sold scrap lead to PAULINS, Victoria, B.C. I have never at any time taken lead from the cable shed. I admit that I did wrong but believing the scrap lead to be no good. I am afraid I did not take as serious a view of the matter as I should have done.

(Sgd).....Corporal
Victoria Detachment,
B.C. Area Signal Sqn.,
Western Command Signal Regt.,
R.C.C.S.

I certify the foregoing Summary consisting of 9 pages was taken down by me in the presence of the accused at Esquimalt, B.C. on the 6th, 7th, 8th, 9th, 10th and 12th of September 1949, and that Rules of Procedure 4 (C)(D)(E) and (F) have been complied with.

(Sgd).....Capt, RCA,
Royal Cdn School of Arty (CA(AF)

EXHIBIT "A"

Aug. 27, 1949.
Work Point Bar
Esquimalt, B.

Statement of:
John Robert Brundrit, Cpl. SK 63145

I have been duly warned that: I nee
not say anything. I have nothing to
hope from any promise or favor, and
nothing to fear from any threat, whet
or not I say anything. Anything
I do say may be used as evidence.

On Aug. 11, 1949 and April 29, 1949
and on one other occasion, which dat
I cannot remember, I transported in
an Army truck quantities of metal
to Paulin's Plumbing & Heating, 1323
Government St., Victoria, B.C. from
Signal Centre, Work Point Barracks,
Esquimalt B.C., where I am station
as a member of the Signal Detachmen
On April 29, 1949 the metal I
transported in this manner was lead
which had been melted down and
received $26.70 for it. On Aug. 11, 19
the metal I transported in this
manner was in form of the lead
covering from telephone cable whic
was approximately an inch and one
half in diameter. I was aware
this was against Army Regulations
but I considered the metal to be
scrap. I received $20.00 for this last
quantity of metal.

I make this statement voluntar
which is true to the best of my
knowledge and belief.

J. R. Brundrit, Cp

D. E. Hamson
27-8-49.

No. Aug. 11

Name Paulin's

Ship

Terms Sold by R. Jones

200 lbs. used Lead		20.00

Paid

R. Jones

EXHIBIT "B"

No. ____ Apr 29

Name Paulin's

Ship

Terms ____ Sold by ____

Scrap lead	26.7	
Paid 1.8		
Brem[illegible]		

EXHIBIT "C"

"H"

ADDRESS BY DEFENDING OFFICER IN MITIGATION OF PUNISHMENT

Mr. President and Gentlemen:

Corporal Brundrit having pleaded guilty throws himself on the mercy of the Court. However, there are certain circumstances which should be taken into account in considering punishment.

The lead referred to in the two charges was actually scrap and came from two main sources. The first source was the old compound where cable is left lying around in a haphazard manner. It is unfenced and unguarded and apparently little check is kept on it at all. The other source is from salvage cable ends left over when a job is completed and rightly or wrongfully there seems to have grown up a fairly common practice of personnel disposing of it.

There appears to be no clear regulations in effect with regard to the collection and disposal of such scrap and the manner in which it was kept resulted in uneccesary temptation and allowed the men to do just about what they wanted with it.

Corporal Brundrit has some nine years service in the army. Though a GD he is working as a lineman and Captain Coombe has confirmed he is hard-working and consciencious. The accused has done a silly thing but has admitted his fault from the outset and has co-operated with the authorities right along. His conduct sheet is clean and I would very much appreciate the Court taking these matters into account in deciding sentence.

Judge Advocate: Captain Button, with regard to the matters raised by you in your address, I take it you do not mean to suggest the accused was justified in acting as he did?

Defending Officer: No, sir - these matters are raised only in mitigation - we admit an offence was committed.

"Y"

J. A. Millard Major.
President D.C.M.

M.F.B. 225
7SM—8-42 (160)
H.Q. 1772-36-650
A.F.B. 294

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
5K-63145	Corporal	John Robert BRUNDRIT,	BC Area Signal Sqn, Western Command Signal Regt RCCS

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

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	Nil	times
For	Nil	times	Nil	times
For	Nil	times	Nil	times
For	Nil	times	Nil	times

~~The number of instances of gallantry or distinguished conduct~~ ~~xxx~~

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

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

2. The accused has not been previously convicted by ~~a~~ court martial or a civil court.

~~The convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act~~ ~~Section 47 of the Army Act, and dispensations with his trial under Act 28~~ ~~are set out in the Schedule~~ ~~to this statement.~~

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

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

4. The accused has been in confinement awaiting trial on the present charges, for ~~days in civil custody, and~~ two days ~~days in~~ military custody, making a total of 2 days in custody, ~~of which~~ ~~days were spent in hospital.~~

5. The present age of the accused according to his ~~attestation~~ is attestation paper 42 yrs. 5½ mos.

6. The date of his ~~attestation~~ specified in his ~~present~~ service is attestation attestation paper 20 February 1947

7. The service which the accused is allowed to reckon towards discharge is 9 years, 25 days

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

9. The accused is in possession of or entitled to ~~any~~ decoration, or ~~any~~ military reward (or is in possession of or entitled to). State any ~~military~~ decoration or reward. 1939-45 Star, France-Germany Star, Defence Medal, CVSM & Clasp & War Medal.

10. (~~If the accused is a warrant officer~~) ~~The accused holds~~ ~~a warrant~~ ~~dated~~ ~~and~~ ~~has held~~ ~~the regimental rank of~~

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

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— 13 JAN 48 Date of promotion.

In the rank of Corporal 1¾ years.

~~In the rank of~~ ~~xxxxx~~

~~In the rank of~~ ~~xxxxx~~

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 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, Number~~ ~~xxxxx~~ ~~Rank~~ ~~xxxxx~~ ~~Unit~~ ~~Name~~ ~~of~~ ~~Regiment~~

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

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

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 Twenty-Eight h day of SEPTEMBER, 1949 (D GRANT) Major OC BC Area Signal Sq

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

H.Q.C. C.55-B-3596 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT Ah...

DISTRICT COURT-MARTIAL

BARBER, DOUGLAS, LLOYD, GNR, SB 22421

CONFIDENTIAL
H.Q.C. C.55-B-3596

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
				JAG			
NOV 25 1949	24 11/49	PA	Eff.	D Admin	To note & PA	[illegible]	22 11/49
AUG 24 1950	23 8/50	Pa.	B.	Admin	PER REQUISITION ON AUG 17 1950		
	11 Sept	PA	G.L.P.	Admin	[illegible] SEP 7 1950		

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-V-[illegible]
HQC 55-B-3596 (JAG/O)

XXXXXX

THE OFFICE OF THE JUDGE ADVOCATE GENERAL

DIRECTORATE OF ADMINISTRATION
ARMY
SEP 8 1951
OTTAWA
CANADA

DIRECTORATE OF ADMINISTRATION
ARMY
AUG 23 1950
OTTAWA
CANADA

November 22nd, 1949.

DIRECTORATE OF ADMINISTRATION
ARMY
NOV 23 1949
OTTAWA
CANADA

Headquarters,
Prairie Command,
Fort Osborne Barracks,
WINNIPEG, Manitoba.

District Courts-Martial
SB 22421 Gnr Barber, D.L., RCSA
SB 153126 Gnr Vancise, W.J.K., RCSA

Receipt is acknowledged of your PC/SB 22421 (A) and SB153126 (A) dated 15 Nov 49 enclosing proceedings of the m/n District Courts-Martial.

2. These proceedings were entered in our records as Nos. 47151 and 47152, respectively, on 22nd November, 1949.

WMWS/ML

WMWS
(W.M.W.Shaw)Lt.-Col.
for Judge Advocate General.

Recorded
24/11/49

NOTED
C/Amnesty Capt
for D/Adm.
24/11/49

Local 2841

Balance of sentence remitted
12 Apr. 50
S.R. Parry, Capt.
for D. Adm.
11 Sep 50.

H.Q. C.55-B-3596
M.D.

MEMORANDUM - DISTRICT COURT-MARTIAL

No SB 22421 Name BARBER, Douglas Lloyd

Rank Gnr. Unit Royal Canadian School of Artillery

Charge AA 15(1) -- Absenting Himself Without Leave -- absent from 2359 hrs 2 Aug 48 to 0530 hrs 14 Sep 49 RTU $27.35

AA 24(2) -- Losing By Neglect His Clothing And Regimental Necessaries Value $33.09

Date of Crime (1) 2 August 1948; (2) 22 September 1949;

Date of Arrest 14 September 1949 Charge Signed 17 October 1949

Orders for D.C.M. 20 October 1949

Place and Date of Trial Shilo, Manitoba, 21 October 1949

Sentence 15 Months Detention; Stoppages $60.44

Date of Confirmation 26 October 1949

Date of Promulgation 27 October 1949

Entered in Records of J.A.G. as No. 47151

Date 22 November 1949

MEMO Accused found guilty of both charges.

W. W. W.

(W. W. W. Shaw)
Lt. Col.
DJAG

NOV 22 1949

for Judge Advocate-General

PC/SB 22421 (A)
SB 153126

DEPARTMENT OF NATIONAL DEFENCE
ARMY

WINNIPEG, Manitoba.
15 Nov 49.

Rec'd JAG
NOV 18 1949
File No. C 55 - B-3596
Copy to.....

Army Headquarters,
Department of National Defence,
OTTAWA, Ontario.

DISTRICT COURTS-MARTIAL
SB 22421 Gnr BARBER, D.L., RCSA
SB 153126 Gnr VANCISE, W.J.K., RCSA

Herewith enclosed proceedings of the marginally noted courts martial. These courts have been reviewed as required by CAO 62-3 and it is considered that NO administrative action is outstanding.

(R.E.A. Morton) Brigadier,
General Officer Commanding,
Prairie Command.

Att

Original on C 55-B-3596
Copy on C 55-V-395

MEDICAL OFFICER'S REPORT

I certify that No. SB 22421 Gnr Barber DL

of R.C.S.A. is in a good state of health,

and fit to undergo Trial by Court martial.

R Fournier Maj
Medical Officer

Station Shilo Manitoba

Date 21 Oct 49

M. F. B. 246
50M—9-44 (5437)
H.Q. 1772-99-400

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

A WEL

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

Proceedings of a District Court-Martial held at Shilo, Manitoba, on the 21st day of October 1949 by order of Brigadier R.E.A.Morton, DSO, General Officer Commanding Prairie Command dated the 20th day of October 1949.

President.

ZU.2604 Major D.A.W.Olliver, RCA,
1st Field Regiment, RCHA

Members.

ZC.1877 Captain M.L.A.Chabot, RCA,
1st Field Regiment, RCHA

ZH.3118 Captain P.D.A.Harrison, RCA,
1st Field Regiment, RCHA

ZL.1080 Major W. E. Scott, HQ Prairie Command, Judge Advocate.

Trial of* SB.22421 Gunner Douglas Lloyd BARBER,
Royal Canadian School of Artillery

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

WEL ~~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,† TL.11391 2/Lieutenant C. D. Tillsley, RCA CA(RF)
Royal Canadian School of Artillery

WEL ~~Counsel~~‡ or defending officer†
ZA.3081 Lieutenant G. E. Walker, RCA,
Royal Canadian School of Artillery

At 1430 hours the Trial commences.

The order convening the Court is read, and is marked X 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.

Q.1 *Question by the President to the accused.* Do you object to be tried by me as President. or by any of the officers whose names you have heard read over?

A.1 *Answer by accused.* No, sir.

(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, Unit, Attachment (if any), and Appointment (if any).

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

‡ Qualification to be stated.

(*Strike out and initial when not applicable.*)

CAFB 271
3M—3-49 (2090)
H.Q. 224-21-B-271

** I have satisfied myself that none of the officers detailed as members of this Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the ~~charges~~ (charges) before the Court-Martial.

D.A.W.Olliver
(D.A.W.Olliver) Major
President DCM

B

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

Q.2 Do you object to SH.70207 Sgt. Reith, L. G., HQ Prairie Command, acting as shorthand writer? *Question to the accused.*
A.2 Answer No, sir.

SH.70207 Sgt. Reith, L. G., HQ Prairie Command is duly sworn as shorthand writer.

~~The following officers under instruction, having been duly detailed, are duly sworn.~~

Charge-Sheet

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

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

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

SB.22421 Gunner Douglas Lloyd BARBER,
Royal Canadian School of Artillery -

Q.3 Is that your number, rank, name and unit? *Question to the accused.*

A.3 Yes, sir. *Answer.*

Q.4 Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

A.4 Guilty, sir. *Answer.*

Q.5 Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

A.5 Guilty, sir. *Answer.*

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

Answer.

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

Answer.

The accused having pleaded Guilty to the charges 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 Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

"B-2"

D. A. Olliver

(D.A.W.Olliver) Major
President DCM

CHARGE SHEET

The accused, No. SB.22421 Gunner Douglas Lloyd BARBER, Royal Canadian School of Artillery, a soldier of the Canadian Army (Active Force), is charged with:-

FIRST CHARGE
Section 15(1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE,

in that he

at Toronto, Ontario, whilst a patient in the Toronto Military Hospital, absented himself without leave from 2359 hours, 2nd August, 1948, until apprehended by the civil authority in Toronto, Ontario, at 0530 hours, 14th September, 1949. Cost of return to unit: $27.35.

SECOND CHARGE
Section 24(2)
Army Act

LOSING BY NEGLECT HIS CLOTHING AND REGIMENTAL NECESSARIES,

in that he

at Shilo, Manitoba, on 22nd September, 1949, was deficient the following articles:-

	Qty	75% Vocab Value
Clothing Division "A"		
Coats, waterproof, Army	1	$ 4.94
Gloves, woollen	1	.48
Mitts, pullover, leather	1	.67
Overalls, combination	1	1.80
Clothing Division "B"		
Blouses, battledress	1	4.65
Berets, khaki	1	.86
Boots, ankle, army	1	4.16
Drawers, cotton, short	1	.30
Trousers, battledress	1	4.67
Hose tops	1	.45
Jackets, khaki drill	1	2.52
Shirts, khaki	2	2.80
Shoes, leather, black	1	3.46
Clothing Division "C"		
Badges, cap, artillery	1	.05
Combs, hair	1	.03
Neckties, black	1	.14
Clothing Division "1A"		
Bags, ration	1	.03
Belts, waist, WE Patt 37	1	.52
Tins, mess, rectangular	1	.41
Straps, web supporting	1	.10
Section "K"		
Buckles, brass	1	.05
Total at 75% Vocab Value:		$ 33.09

(J. W. Greenwood) Major RCA
A/Commandant
Royal Canadian School of Artillery

Shilo, Manitoba,
1.th October, 1949.

TO BE TRIED BY DISTRICT COURT MARTIAL.

L Fuson

(O. L. Fuson) Major
DAAG, Prairie Command
for (R. E. A. Morton) Brigadier
General Officer Commanding
Prairie Command

Winnipeg, Manitoba,
20th October, 1949

(This page to be removed from proceedings when plea to all charges is Not Guilty.)

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

W.E.L. ~~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 No. 22421 Gunner Douglas Lloyd BARBER,
Royal Canadian School of Artillery
is found guilty of the first and second charges.

Q.6 *Question to the accused.* Do you wish to make any statement in reference to the charge(s)?

Answer. No, sir.

The accused in reference to the charge(s) says:—

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

W.E.L.

W.E.L.

*The summary (~~or abstract~~) of evidence is read, marked "G" 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.

Q.7 Do you wish to make any statement in mitigation of punishment? *Question to the accused.*

A.7 The accused in mitigation of punishment says:— *Answer.*

~~(or hands in a written statement, which is read, marked ..... signed by the President, and attached to the proceedings)~~

Sir, I joined the Army in June 17th, 1941. I went Overseas with the 4th LAA Regt. During my service I had no crimes. I worked with the unit as a motor mechanic. I stayed with the unit until I was sent home August 1945 on repat. I was discharged October 11th, 1945. After my discharge, I worked as an equipment mechanic with a construction firm. I liked the Army while I was Overseas, and figured I would take another chance at it. I enlisted in January 1948, and came to Shilo, here. Things weren't satisfactory in the unit, and I had trouble with certain NCOs. I went on a Driver Mechanic's course and from there I took sick and went to Deer Lodge Hospital for an operation for a hernia. After I returned from hospital I went home to Simcoe on sick leave. I was home five days and was sent to Toronto Military Hospital with suspected acute appendicitis. I was there approximately two weeks, and they were going to send me back without finishing my leave. I was kind of discouraged, so I took off and went AWL to take the rest of my leave. When the time was up I was afraid to come back. During my AWL I was married. My wife is not working she is not well, and is receiving money from my father, and is living under unsatisfactory conditions. That is all I have to say, sir.

QUESTIONED BY THE COURT:

Q.8 Do you have any children, Barber?

A.8 No, sir.

Q.9 How long have you been married?

A.9 I was married in October last year, sir.

Q.10 Where is your wife living?

A.10 In Toronto, sir.

(For remainder of evidence see Page DD 2)

Q.18 Do you wish to give evidence yourself or to call any witnesses as to character? *Question to the accused.*

A.18 No, sir. ---------- *Answer.*

Evidence as to character.

Q. 11 With your people?

A. 11 No, sir. She is living with her sister.

Q.12 What is the matter with her? You said she was sick.

A.12 She is anemic, sir.

Q.13 Were you working while you were absent?

A.13 Yes, sir.

Q.14 What is your attitude toward the Army now? Do you want to stay in or get out?

A.14 Well, sir, I wouldn't mind staying in if I could get a transfer from the Artillery.

Q.15 Have you a job to go to if you get out?

A.15 Yes, sir.

Q.16 Barber, you are an old soldier. You stayed absent for all that length of time. Surely you knew you could give yourself up? You must have known you were going to be caught sooner or later, and you certainly must have known that if you were caught you would be punished. Is that right?

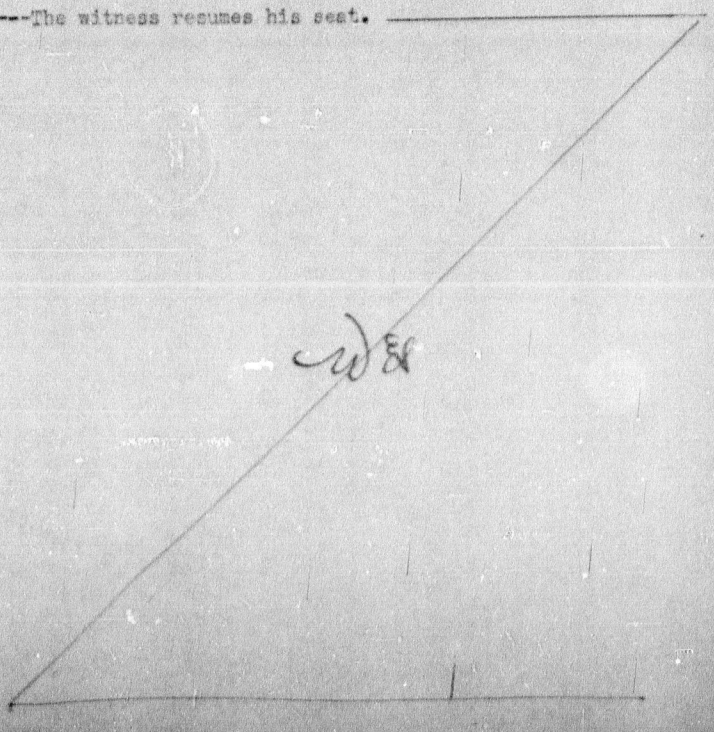
A.16 Yes, sir.

Q.17 What is the reason for staying away?

A.17 I was just scared to come back, sir.

---In the opinion of the Court and the Judge Advocate, it is not necessary to comply with AP 83(B).

---The witness resumes his seat.



E

~~Finding*~~

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

The Court is closed for the consideration of the finding.

The Court find that the accused

WE

ANNOUNCEMENT OF FINDINGS

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

The finding(s) is (are) read in open court and except the finding(s) of "Not Guilty" is (are) announced as being subject to confirmation.

Proceedings on Conviction *before Sentence*

Evidence of character, etc.

TL.11391 2/Lieutenant C. D. Tillsley, RCA,CA(RF), is duly sworn. Acting Adjutant, Royal Canadian School of Artillery

Q.19 *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.* A.19 Yes, sir. I produce MFB 355 and MFM 6.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked $\frac{\text{MFB 355}}{\text{MFM 6}}$, signed by the President, and annexed to the proceedings.

Q.20 *Question by the President.* Is the accused the person named in the statement which you have heard read? *Answer by the witness.* A.20 He is, sir.

Q.21 *Question.* Have you compared the contents of the above statement with the regimental books? *Answer.* A.21 I have, sir.

Q.22 *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?

A.22 *Answer.* They are, sir.

WE

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

~~Cross-examined by the Defending Officer (accused) (Counsel for the accused).~~ The Defending Officer declines to cross-examine.

In the opinion of the Court and the Judge Advocate, it is not necessary to comply with LP 83(B).

The witness withdraws.

Q.23 *Question to the accused.* Do you wish to address the Court?

A.23 *Answer.* No, sir.

PRESIDENT: The Court is closed for the consideration of the sentence.

F

Sentence

Sentence. Detention 15 months
Stoppages
$ 27.35
32.09
$ 60.44

The Court sentence the accused SB.22421 Gunner Douglas Lloyd BARBER, Royal Canadian School of Artillery, to undergo detention for fifteen (15) months, and to be put under stoppages of pay until he has made good the sum of $27.35, in respect of the cost of return to unit, and to be put under stoppages of pay until he has made good the sum of $33.09, being the value of the articles listed in the second charge.

Announcement of Sentence

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

The sentence ~~and recommendation~~ is (as) announced in open Court; the sentence is announced as being subject to confirmation.

Signature

Signed at Shilo, Manitoba,
this 21st day of October A.D. 19 49.

W E Scott
Judge Advocate
(W. E. Scott) Major.
HQ Prairie Command

D. A. Ollivier
President
(D. A. W. Ollivier) Major
1st Field Regiment RCHA

Confirmation

Confirmed

Signed at Winnipeg, Manitoba,
this 26th day of October A.D. 1949.

R. E. A. Morton
(R. E. A. Morton) Brigadier
General Officer Commanding
Prairie Command

Promulgation

Extracts entered as No. 47151 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 2nd day of Jan. 1950

Promulgation and extracts taken at Shilo, Manitoba
this 27 day of October A.D. 1949.

Lt Col Adjutant
Royal Canadian School of Artillery

"A"
D. A. Olliver
(D.A.W.Olliver) Major
President DCM

Orders by Brigadier R. E. A. Morton, DSO, ~~Commanding~~
~~Officer~~ General Officer Commanding, Prairie Command

District Court-Martial

SB.22421 Gunner Douglas Lloyd BARBER
SB.153126 Gunner William James Kenneth VANCISE
Royal Canadian School of Artillery

WINNIPEG, Manitoba,
20th October, 1949

The detail of Officers as mentioned below will assemble

at Shilo, Manitoba on Friday

the 21st day of October 1949 at 1400 hours

for the purpose of trying by a District Court-Martial the accused ~~person~~ (persons) named in the margin (and such other person or persons as may be brought before them).

PRESIDENT

ZU.2604 Major D.A.W.Olliver, RCA,
1st Field Regiment, RCHA — is appointed President.

MEMBERS

ZC.1677 Captain M.L.A.Chabot, RCA,
1st Field Regiment, RCHA
ZH.3118 Captain P.D.A.Harrison, RCA,
1st Field Regiment, RCHA

WAITING MEMBERS

ZP.1812 Captain F. R. Michie, RCA,
Royal Canadian School of Artillery

JUDGE ADVOCATE

ZL.1080 Major W.E.Scott, HQ Prairie Command ~~has been~~ (is hereby) appointed Judge Advocate.

PROSECUTOR

TL.11391 2/Lieutenant C. D. Tillsley, RCA(CA(RF))
Royal Canadian School of Artillery ~~has been~~ (is hereby) appointed Prosecutor.

DEFENDING OFFICER

ZA.3081 Lieutenant G. E. Walker, RCA,
Royal Canadian School of Artillery ~~has been~~ (is hereby) appointed Defending Officer.

The accused will be warned and all witnesses duly required to attend.

The Commandant, Royal Canadian School of Artillery will arrange for the necessary accommodation, stationery, court orderly, escort, ~~shorthand writers,~~ and interpreters.

The proceedings will be forwarded to AA & QMG, Prairie Command

Signed this 20th day of October 1949

(O. L. Fuson) Major
DAAG, Prairie Command
for (R. E. A. Morton) Brigadier
General Officer Commanding
Prairie Command

M.F.B. 220
A.F.A. 47
25M—7-43 (1152)
H.Q. 1773-39-364

"C"
D.A.W. Olliver
(D.A.W.Olliver) Major
President DCM

SUMMARY OF EVIDENCE

in the case of

No. SB 22421 Gunner Douglas Lloyd BARBER
Royal Canadian School of Artillery, CA(RF).
charged with

(1) ABSENTING HIMSELF WITHOUT LEAVE

(2) LOSING BY NEGLECT HIS CLOTHING

The CO directs that the evidence be taken on oath.

First Witness SP 60006 QMS BRUCE R J H, Royal Canadian School of Artillery, CA(AF), being duly sworn states:

I am the Superintending Clerk of the Royal Canadian School of Artillery, CA(AF), and have been since 1 October 1946. As Superintending Clerk I have access to the Regimental books of the unit and the documents of the accused, whom I recognize as SB 22421 Gnr Douglas Lloyd BARBER, Royal Canadian School of Artillery, CA(AF).

I produce the following documents, all referring to the accused, Gnr BARBER:

(1) MFB 375, being certified true copy of the Record of the Declaration of the Court of Inquiry inquiring into the absence of the accused, and duly certified by me for the Adjutant and officer having custody of the original record.

(2) Certificate of apprehension of the accused, in accordance with AA 163 (1) (m), purporting to be signed by PS MANSELL, in charge of No 1 Police Station, TORONTO, Ontario.

(3) Certified true copy of Royal Canadian School of Artillery, CA(AF) Part II Order No 112 Dated 13 Oct 49, showing costs of return to his unit of the accused to be $27.35.

MFB 375 is marked "A", Certificate of Apprehension is marked "B"; and certified true copy of Royal Canadian School of Artillery Part II Order No 112 dated 13 Oct 49 is marked "C"; signed by the officer taking the Summary of Evidence and attached to the Summary of Evidence.

The accused declined to cross examine.

R J H Bruce
.....QMS
Royal Canadian School of
Artillery CA(AF).

Second Witness SL 107762 Gnr LA PLANTE M, Royal Canadian School of Artillery, CA(AF), having been duly sworn, states:

I am SL 107762 Gnr LA PLANTE M, presently employed as storeman with the QM stores of the Royal Canadian School of Artillery, CA(AF). On 22 September, 1949, I held a kit inspection in connection with the accused, Gnr BARBER D L, at which time he did not have any articles of his kit, and was still deficient the following articles, with their vocabulary and 75% rates:

		100%	75%
Section "A"			
Coats, waterproof, army	1	6.58	4.94
Gloves, woollen,	1	.63	.48
Mitts, pullover, leather	1	.89	.67
Overalls, combination	1	2.40	1.80
Section "B"			
Blouses, battledress	1	6.19	4.65
Berets, khaki	1	1.14	.86
Boots, ankle, army	1	5.54	4.16
Drawers, cotton, short	1	.40	.30
Trousers, battledress,	1	6.23	4.67
Hose tops	1	.59	.45
Jackets, khaki drill	1	3.35	2.52
Shirts, khaki	2	3.72	2.80
Shoes, leather, black	1	4.61	3.46
Section "C"			
Badges, cap artillery	1	.06	.05
Combs, hair	1	.04	.03
Neckties, black	1	.18	.14
Section "1-A"			
Bags, ration	1	.04	.03
Belts, waist WE Patt 37	1	.69	.52
Tins, mess rectangular	1	.54	.41
Straps web supporting	1	.13	.10
Section "K"			
Buckles, brass	1	.06	.05
TOTAL		$44.01	$33.09

The accused declined to cross examine.

M. LaPlante Gnr
Royal Canadian School of
Artillery, CA(AF)

QUESTION TO THE ACCUSED: "Do you wish to make any statement of 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."

ANSWER BY THE ACCUSED: "I have nothing to say at this time, sir. But will hold any statement or evidence until such time as a Defending Officer is appointed.

D.J. Baker .....Gnr
Royal Canadian School of
Artillery CA(AF).

I certify that the forgoing Summary consisting of three pages was taken down by me in the presence of the accused at SHILO, Manitoba, this 13th day of October, 1949, and that Rules of Procedure 4(c) (d) (e) and (f) have been complied with.

.....2/Lt
Royal Canadian School of
Artillery, CA(RF)
Officer detailed to take this Summary of Evidence.

"A" C.W.I. 1

RECORD of the Declaration of a Court of Inquiry assembled at SHILO, Manitoba on the 31st day of August 19 48, 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. SB-22421 Gnr BARBER D L

DECLARATION

The Court declare that No. SB 22421 (Regt'l No.) Gnr (Rank) BARBER Douglas Lloyd (Full Name) R C S A (Unit) illegally absented himself without leave whilst a patient in Toronto Military Hospital at TORONTO (Place) at 2359 hours on the 2nd day of August 1948, that he is still so absent, and that on the 27th August 1948 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
Blouses, Battledress, Serge	$ 6 19	Tins, Mess, Rectangular,	$ 54
Berets, Khaki	1 14	Buckles, Brass	06
Boots, Ankle, Army	5 54	Coats, Waterproof, Army	6 59
Drawers, Cotton, Short	40	Hosetops drab	59
Gloves, Woolen, Khaki, Crosswise	63	Jackets, o/c khaki drill	3 35
Overalls, Combination	3 40	Mitts, pullover, leather	89
Trousers, Battledress, Serge	6 23	Neckties, black	18
Badges, Cap, Artillery	06	Shirts, khaki cotton 2	3 72
Combs, Hair	04	Shoes, leather, black	4 61
Bags, Ration, MK 4	04	100%	$44 01
Belts, Waist, WE Patt 137	69	Total at 75%	33 09
Straps, Web Supporting WE Patt 137	13		

L D Farrelly Capt RCSA (Name) (Rank) (Unit) President

C H Murphy Capt RCSA (Name) (Rank) (Unit) Member

Signed at SHILO, Manitoba.

this 31st day of August 19 (Name) (Rank) (Unit) Member

Signature of Commanding Officer J W Greenwood Major RCSA (Name) (Rank) (Unit)

Certified true copy [illegible] Capt Adjt RCOA (Name) (Rank) (Unit)

(Signature of Officer having custody of original record)

M.F.B. 375
A.F.B. 115
150M—10-42 (6530)
H.Q. 1772-39-257

"B" 6W6.

Certificate in accordance with Section 163 (1) (m) of the Army Act

I certify that the person whose description is given below was arrested (~~xxxxxxxxxxxx~~ RTU) at Toronto Ont. (Place), at 0630 (Hour)

on the 14th day of September, 1949

Regimental particulars of Officer or soldier referred to above

(No. SB-22421
(Rank. Gnr.
(Name. BARBER Douglas Lloyd.
(Unit. RCS of A Shilo Man.
(Age. 27 yrs.
(Height. 5' 6½"
(Complexion. Dark
(Hair. Dark Brown
(Eyes. Dark Brown
(Marks. Mole on back, and scar on right hand.

Description

Signature of officer of police in charge of police station where the above-named person was taken, or placed in custody, on arrest or surrender

K. Mansell
(In Charge of PS Mansell: NO-1 Police Stn.
Police Station)

6

Last Part II Order No. 111 | ROYAL CANADIAN SCHOOL OF ARTILLERY | This Order No. 112

Dated 12 Oct 49 "C" [signature]

PUBLISHED BY
Lt-col J W D SYMONS RCA
Commandant

Dated 13 Oct 49

Place SHILO, Man

2 0 8 0 1

HOLDING ESTABLISHMENT

"B" -- OTHER RANKS

1. TOS on apprehension at TORONTO, Ontario at 0530 hrs Cost of return $27.35 SB 22421 Gnr BARBER D L RCA 14 Sep 49

Certified True Copy

[signature] Lt.

A/ Adjutant
Royal Canadian School of Artillery.

D. A. Olliver
(D.A.W.Olliver) Major
President DCM

M.F.B. 355
50M—6-45 (7476)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
SB - 22421	Gnr	D L BARBER	RCSA

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

Within last 12 months		Since enlistment or appointment	
For NIL	times	ONCE Sec 19	times
For	times		times
For	times		times
For	times		times

~~[illegible]~~

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

~~[illegible]~~

day of .....

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 55 ~~[illegible]~~ days in military custody, making a total of 35 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper 27 yrs. 11 mos

6. The date of his ~~[illegible]~~ attestation specified in his ~~[illegible]~~ is 8 Jan 48.

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

8. The accused is entitled to reckon 7 mos. service for the purpose of determining his pension, etc.

9. ~~[illegible]~~

10. ~~[illegible]~~

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

Permanent Force
unit

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

..... dated .....

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

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

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 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, Number ..... Rank .....

Air Force

Name ..... of ..... Regiment

Unit

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

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

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 21st day of October 1940 Lt Tubbley
A/Adjt RCS

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.

Reg. No. SB-22421 Name BARBER D L Corps RCA Date of enlistment or enrolment 8 Jan 49 Date of Birth [illegible]

Signature O.C. Company, etc. Sheet No. 1 of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
SHILO Manitoba	29 May 48	Gnr		DRUNKENNESS-in that he at BRANDON, Man on the night of 29 May 48. Sec 19 Army Act	Sgt Card R F	5 days CB "2" (D.A.W.Oliver) Major President DCM	31 May 48	Major J M SINCLAIR	
	17 Oct 49			CERTIFIED TRUE COPY (C D TILLSLEY) 2/Lt., RCA A/Adjt RCSA					

(P.T.O.)

M.F.M. 6—800M—4-44 (5386)
H.Q. 1772-39-1632

C.55-B-3597

H.Q.C. ARMY CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE—OTTAWA, CANADA

CROSS REFERENCE

SUBJECT

DISTRICT COURT MARTIAL

BEAUDIN, JEAN BAPTISTE, LAURENT,

SC 44666 GNR

CONFIDENTIAL
H.Q.C. C.55-B-3597

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
					(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")		
				JAG	NEW FILE OR NOV 30 1949		
DEC 7 - 1949	5 12/49	PA	Egll	Dadmin	To note + PA	[illegible]	3 12/49

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives other offices an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQC 55-B-3597 (JAG/C)

xxxxxx

THE OFFICE OF THE JUDGE ADVOCATE GENERAL

DIRECTORATE OF ADMINISTRATION
ARMY
DEC 5 1949
OTTAWA
CANADA

December 3, 1949.

Headquarters,
Prairie Command,
Fort Osborne Barracks,
WINNIPEG, Man.

Sentence of
district Court-Martial
SC 44666 Gnr BEAUDIN, J.B.L.
Royal Canadian School of Artillery

Receipt is acknowledged of your PC/SC 44666 (A) dated 26 November, 1949, enclosing proceedings of the marginally noted District Court-Martial.

2. These proceedings were entered in our records as No. 47160 on 2 December, 1949.

NOTED
By Armoured Corps
for "D" Adm
5-12/49
Local 2841

WMWS/ML

WMWS

(W.M.W. Shaw) Lt.-Col.
for Judge Advocate General.

Recorded
6 5 12/49

H.q.C. C.55-B-3597
M.D.

MEMORANDUM - DISTRICT COURT-MARTIAL

No. SC 44656 Name BEAUDIN, Jean Baptiste Laurent

Rank GNR Unit Royal Canadian School of Artillery

Charge Section 15(1) Army Act - Absenting Himself Without Leave

Section 24(2) Army Act - Losing by Neglect His Clothing and Regimental Necessaries.

Date of Crime 6 SEP 1949

Date of Arrest 13 OCT 1949 Charge Signed 12 NOV 1949

Orders for D.C.M. 14 NOV 1949

Place and Date of Trial Shilo, Manitoba - 17 NOV 1949

Sentence To undergo detention for six (6) months

(Mitigated by GOC Prairie Command to undergo detention for 150 days.

Date of Confirmation 18 NOV 1949

Date of Promulgation 22 NOV 1949

Entered in Records of J.A.G. as No. 47160

Date 2 Dec 1949

MEMO

(W. M. W. Shaw)
Lt. Col.
D J A G

DEC - 3 1949

for Judge Advocate-General

IN REPLY PLEASE QUOTE No. PC/SC 44666 (A)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

HEADQUARTERS PRAIRIE COMMAND
Winnipeg Man 26 Nov 49

Referred to JAG
NOV 30 1949
File No C55-B-3597
Chgd to.....

ARMY HEADQUARTERS
Department of National Defence
OTTAWA Ont

SENTENCE OF DISTRICT COURT-MARTIAL
SC 44666 Gnr BEAUDIN, Jean Baptiste Laurent
Royal Canadian School of Artillery

1 Herewith Proceedings of the marginally noted District Court-Martial.

2 Findings and Sentence have been confirmed as mitigated by the General Officer Commanding and have been promulgated to the accused.

3 There was a delay of 35 days in bringing this other rank to trial. Most of the delay was due to the non-availability of documents which were required as evidence.

4 The Commanding Officer in his remarks and recommendations at para 9 of MFM 288 feels that this other rank should never have been enlisted in the Active Force and recommends his discharge after his sentence has been served. This will be considered on the first review of the sentence and if considered advisable at that time, action will be taken for his discharge and remission of sentence.

(R E A Morton) Brigadier
General Officer Commanding
Prairie Command

Encl

NAT. DEF. B. 440
3000M-12-43 (3261)
H.Q. 1772-39-767

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

A

D&I

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

Proceedings of a District Court-Martial held at Shilo, Manitoba, on the 17th day of November 19 49 by order of Brigadier General Officer Commanding Prairie Command R.E.A.Morton, DSO, dated the 14th day of November 1949.

President.

ZP.1247 Major D. C. Kaye, RC Sigs,
Royal Canadian School of Artillery

Members.

ZE.2697 Captain J. T. Carpenter, RCA,
1st Field Regiment, RCHA

ZL.478 Captain D. W. Green, RCA,
1st Field Regiment, RCHA

ZL.1080 Major W. E. Scott, HQ Prairie Command, Judge Advocate.

Trial of* SC.44666 Gunner Jean Baptiste Laurent BEAUDIN,
Royal Canadian School of Artillery

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

W.E.S. ~~The Court satisfy themselves that xxxxxxxx xxxxxxx is not available by reason of owing to xxxxxxx number 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,† TL.11391 2/Lieutenant C. D. Tillsley, RCA, CA(RF)
Royal Canadian School of Artillery

W.E.S. ~~Counsel for~~ defending officer† TC.3057 2/Lieutenant O.S.Moore,RCA,CA(RF)
Royal Canadian School of Artillery

At 1400 hours the Trial commences.

The order convening the Court is read, and is marked X 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.

Q.1 *Question by the President to the accused.* Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

A.1 *Answer by accused.* No, sir.

(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, Unit, Attachment (if any), and Appointment (if any).

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

‡ Qualification to be stated.

(Strike out and initial when not applicable.) *I have satisfied myself that none of the officers detailed as members of this Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the xxxxxx (charges) before the Court-Martial.

D.C.Kaye Major
President DCM

CAFB 271
3M—3-49 (2080)
H.Q. 224-21-B-271

Extracts entered as No. 47160 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 2nd day of Dec 19 49.

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

Q.2 Do you object to SH.70207 S/Sgt. Reith, L.G., HQ Prairie Command, acting as shorthand writer? *Question to the accused.*

A.2 Answer No, sir.

SH.70207 S/Sgt. Reith, L. G., HQ Prairie Command is duly sworn as shorthand writer.

The following officer~~s~~ under instruction, ~~having been duly detailed,~~ are duly sworn. ZM.2701 Lieutenant T. Graham, RCA,
Royal Canadian School of Artillery

Charge-Sheet

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

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

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

SC.44666 Gunner Jean Baptiste Laurent BEAUDIN,
Royal Canadian School of Artillery -

Q.3 Is that your number, rank, name and unit? *Question to the accused.*

A.3 Yes, sir. *Answer.*

Q.4 Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

A.4 Guilty, sir. *Answer.*

Q.5 Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

A.5 Guilty, sir. *Answer.*

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

Answer.

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

Answer.

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 Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

"B-2"

(D. C. Kaye) Major
President DCM

CHARGE SHEET

The accused, No. SC.44666 Gunner Jean Baptiste Laurent BEAUDIN, Royal Canadian School of Artillery, a soldier of the Canadian Army (Active Force), is charged with:-

FIRST CHARGE
Section 15(1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE,

in that he

at Camp Borden, Ontario, when on Escort Duty, did absent himself without leave from 2300 hours, 6th September, 1949, until apprehended at Russell, Ontario, by Military Authorities at 1035 hours, 13th October, 1949. Cost of return to his unit - $29.46.

SECOND CHARGE
Section 24(2)
Army Act

LOSING BY NEGLECT HIS CLOTHING AND REGIMENTAL NECESSARIES,

in that he

at Shilo, Manitoba, on 20th October, 1949, was deficient the following articles:-

		75% Vocab Value
Clothing Division "B"		
Beret, khaki	1	.86
Shirts, undercotton	1	.31
Socks, black, prs	1	.20
Clothing Division "C"		
Brushes, tooth	1	.07
Razors, safety	1	.29
Clothing Division "D"		
Badges, cap	1	.05
Section "LA"		
Bags, ration	1	.03
Total Value at 75% Vocab Rate:		$ 1.81

(J. W. D. Symons) Lt Col
Commandant
Royal Canadian School of Artillery

Shilo, Manitoba,
12th November, 1949.

TO BE TRIED BY DISTRICT COURT MARTIAL.

(O. L. Fuson) Major
DAAG, Prairie Command
for(R.E.A.Morton) Brigadier
General Officer Commanding
Prairie Command

Winnipeg, Manitoba,
14th November, 1949

(This page to be removed from proceedings when plea to all charges is Not Guilty.)

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded 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 SC.44666 Gunner Jean Baptiste Laurent BEAUDIN,
Royal Canadian School of Artillery
is found guilty of the first and second charges.

Q.6 *Question to the accused.* Do you wish to make any statement in reference to the charge(s)?

A.6 *Answer.* No, sir.

~~The accused in reference to the charge(s) says:~~

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

*The summary (~~or abstract~~) of evidence is read, marked "G" signed by the President, and attached to the proceedings.

---

*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."

Instruction.

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.

Q.7 Do you wish to make any statement in mitigation of punishment? *Question to the accused.*

A.7 The accused ~~in mitigation of punishment~~ says:— No, sir. *Answer.*
(~~or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings~~)

Q.8 Do you wish to give evidence yourself or to call any witnesses as to character? *Question to the accused.*

A.8 Yes, sir. I wish to call one witness as to character. *Answer.*

First Witness for Defence) SB.12006 Sgt. Watts, T., Royal Canadian School of Artillery, being duly sworn, is examined by the Defending Officer. *Evidence as to character.*

Q.9 Will you identify yourself to the Court?

A.9 I am SB.12006, Sgt. Watts, T., Royal Canadian School of Artillery.

Q.10 Will you tell the Court in your own words your affiliations with the accused while he was under your instruction--while he took training under you?

A.10 Roughly about the middle of May, I was posted to instruct No. 18 Basic Arty Squad, of which Beaudin was a member. During that time, until the passing out of the squad, something like the 5th of June, Beaudin, as a member of the class, didn't cause me any trouble--he stayed within the line of duty. He was very quiet, and at no time had I any reason to call Beaudin to order for any misdemeanour.

Q.11 What was he like in class? Was he a good soldier? Did he learn well?

A.11 He was a good soldier, and his attitude toward the training was good. The only thing I found in regards to the training was that in my estimation, his knowledge of English was self taught, and he had difficulty in taking in some of the phrases in English which were presented through the course. I wouldn't say that he anywhere near the top of the course through what he learned, but he was certainly not below average. He qualified and passed out with the course with the other recruits.

Q.12 Was Beaudin absent from the course at any time?

A.12 Not that I can remember, sir. To the best of my knowledge, Beaudin never lost any time through absence.

Q.13 Were there any kit inspections held to your knowledge?

A.13 During the time I had the course I believe there was a kit inspection, but I wouldn't swear to it.

---The Prosecutor declines to cross-examine.

---In the opinion of the Court and the Judge Advocate, it is not necessary to comply with RP 83(8).

---The witness withdraws.

E

~~Finding~~*

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

The Court is closed for the consideration of the finding.

The Court find that the accused

WES

ANNOUNCEMENT OF FINDINGS

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

The finding(s) is (are) read in open court and except the finding(s) of "Not Guilty" is (are) announced as being subject to confirmation.

Proceedings on Conviction *before Sentence*

Evidence of character, etc.

TL.11391 2/Lieutenant C.D.Tillsley, RCA, CA(RF) Royal Canadian School of Artillery is duly sworn.

Q.14 *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.* A.14 Yes, sir, I produce MFB 355 and MFM 6 of the accused.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked $\frac{MYM}{MZM}$, signed by the President, and annexed to the proceedings.

Q.15 *Question by the President.* Is the accused the person named in the statement which you have heard read? *Answer by the witness.* A.15 He is, sir.

Q.16 *Question.* Have you compared the contents of the above statement with the regimental books? *Answer.* A.16 I have, sir.

Q.17 *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?

A.17 *Answer.* They are, sir.

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

WES ~~Cross-examined by the Defending Officer (accused) Counsel for the accused~~. The Defending Officer declines to cross-examine.

In the opinion of the Court and the Judge Advocate, it is not necessary to comply with RP 83(B).

The witness withdraws.

Q.18 *Question to the accused.* Do you wish to address the Court?

A.18 *Answer.* No, sir.

PRESIDENT: The Court is closed for the consideration of the sentence.

F

Sentence

The Court sentence the accused No. SC.44666 Gunner Jean Baptiste Laurent BEAUDIN, Royal Canadian School of Artillery, to undergo detention for six (6) months.

Sentence. Detention 6 Months.

Announcement of Sentence

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

The sentence (~~was~~ is ~~xxx~~) announced in open Court; the sentence is announced as being subject to confirmation.

Signature

Signed at Shilo, Manitoba,

this 17th day of November A.D. 19 49.

W E Scott
Judge Advocate
(W. E. Scott) Major
HQ Prairie Command

D C Kaye maj
President
(D. C. Kaye) Major
Royal Canadian School of Artillery

Confirmation

I confirm the Findings of the Court, but I mitigate the Sentence to read "To undergo detention for 150 days" and I confirm the Sentence as so mitigated.

Signed at Winnipeg, Manitoba,

this 18th day of November A.D. 19 49.

R E A Morton
(R. E. A. Morton) Brigadier
General Officer Commanding
Prairie Command

Promulgation

Promulgation and extracts taken at Shilo, Manitoba,

this 22nd day of November A.D. 19 49.

D Lampon Adjutant
Royal Canadian School of Artillery

"X"

D C Kaye Major
(D.C.Kaye) Major
President, DCM

Orders by Brigadier R. E. A. Morton, DSO ~~[illegible]~~

~~the~~ General Officer Commanding, Prairie Command

District Court-Martial
SC.44666 Gunner Jean Baptiste Laurent BEAUDIN
Royal Canadian School of Artillery

WINNIPEG, Manitoba,
14th November, 1949

The detail of Officers as mentioned below will assemble

at Shilo, Manitoba on Thursday

the 17th day of November 1949 at 1400 hours

for the purpose of trying by a District Court-Martial the accused person (~~[illegible]~~) named in the margin (and such other person or persons as may be brought before them).

PRESIDENT

ZP.1247 Major D. C. Kaye, RC Sigs,
Royal Canadian School of Artillery is appointed President.

MEMBERS

ZE.2697 Captain J. T. Carpenter, RCA,
1st Field Regiment, RCHA
ZL.478 Captain D. W. Green, RCA,
1st Field Regiment, RCHA

WAITING MEMBERS

One Captain to be detailed by Commandant,
Royal Canadian School of Artillery

JUDGE ADVOCATE

ZL.1080 Major W.E.Scott, HQ Prairie Command ~~[illegible]~~ (is hereby) appointed Judge Advocate.

PROSECUTOR

TL.11391 2/Lieutenant C. D. Tillsley, RCA, CA(RF)
Royal Canadian School of Artillery ~~[illegible]~~ (is hereby) appointed Prosecutor.

DEFENDING OFFICER

TC.3057 2/Lieutenant O. S. Moore, RCA, CA(RF)
Royal Canadian School of Artillery ~~[illegible]~~ (is hereby) appointed Defending Officer.

The accused will be warned and all witnesses duly required to attend.

The Commandant, Royal Canadian School of Artillery will arrange for the necessary accommodation, stationery, court orderly, escort, ~~[illegible]~~ and interpreters.

The proceedings will be forwarded to AA & QMG, Prairie Command

Signed this 14th day of November 1949

M.F.B. 229
A.F.A. 67
25M—7-43 (1152)
H.Q. 1772-39-564

(O. L. Fason) Major
DAAG, Prairie Command
for (R. E. A. Morton) Brigadier
General Officer Commanding
Prairie Command

"C"

(D. C. Kaye) Major
President DCM

SUMMARY OF EVIDENCE

in the case of

SC 44666 Gunner Jean Baptiste Laurent BEAUDIN
Royal Canadian School of Artillery, CA (AF)
charged with

1) ABSENTING HIMSELF WITHOUT LEAVE
2) FAILING TO APPEAR AT A PLACE OF PARADE
3) LOSING BY NEGLECT

The CO directs that the evidance be taken on oath.

First Witness - SP 60006 WO II BRUCE, Robert John Horatio, Royal Canadian School of Artillery, CA(AF), being duly sworn states:-

I am the Superintending Clerk of the Royal Canadian School of Artillery and have been since 1 Oct 46. I have access to the regimental documents of the accused whom I recognise as SC 44666 Gnr BEAUDIN, Jean Baptiste Laurent, Royal Canadian School of Artillery, CA(AF).

I produce the following documents:

(1) Statement of evidence purporting to be signed by SP 16470 Sgt BEARSS, E., duly certified by the officer taking the summary of evidence that RP 4(G) has been complied with.

(2) Certificate of Apprehension of the accused in accordance with Army Act 163(1)(M) purporting to be signed by ZK 2135 Captain TJ QUIRK, OC NDHQ Security Guard.

(3) Certified True Copies of RCSA Part II Orders No. 115 dated 25 Oct 49, showing cost of return to unit.

Statement by SP 16470 Sgt BEARSS, E., is marked "A", Certificate of apprehension is marked "B", certified true copy of RCSA Part II Order No. 115 dated 25 Oct 49 is marked "C"; signed by the officer taking the Summary of Evidence and attached to the Summary of Evidence.

The accused declined to cross examine.

C Bruce

WO II
RCSA CA (AF)

Second Witness SL 107762 Gnr LaPLANTE, Michael, Royal Canadian School of Artillery, CA(AF), being duly sworn states:-

I am SL 107762 Gnr La PLANTE, Michael of the Royal Canadian School of Artillery, CA(AF). On 20 Oct 49 I held a kit inspection in connection with the accused, Gnr BEAUDIN, JBL. I checked his kit. I found that he did not have and was deficient the following articles, with their vocabulary and 75% rates:-

...../

Summary of Evidence (Cont'd)

	100% Vocab Value	75% Vocab Value
Clothing Division "B",		
Beret khaki 1,	$ 1.14	.86
Shirts undercotton 1,	.41	.31
Socks black prs 1,	.27	.20
Clothing Division "C"		
Brushes tooth 1,	.09	.07
Razors safety 1,	.38	.29
Clothing Division "D"		
Badges cap 1	.06	.05
Clothing Division "1A"		
Bags ration 1,	.04	.03
	$ 2.39	$ 1.81

Total 100% Vocab Value ..... $ 2.39

Total 75% Vocab Value ..... $ 1.81

The accused declined to cross-examine.

W.W. Leyland Capt
RCSA CA(AF)

QUESTION TO THE ACCUSED:- "Do you wish to make any statement or 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".

ANSWER BY THE ACCUSED:- "I have nothing to say at this time, but will hold any evidence or statement I may have until such time a defending officer is appointed, sir".

J.B.L. Beaudin .....

I certify that the foregoing Summary consisting of 2 pages was taken down by me in the presence of the accused at SHILO Garrison, Manitoba this 7th day of November, 1949, and that Rules of Procedure 4(C)(D)(E)(F) and (G) have been complied with.

L.D. Tilley Lt.
RCSA CA (AF)
Officer detailed to take this Summary of Evidence

A Exhibit "A"

R.C.S. of I.,
CAMP BORDEN, Ont.

5 OCT 49

ORIGINAL

STATEMENT OF EVIDENCE BY -
SP 16470, Sjt. BEARSS, E.

Sir:

On 2 SEP 49, I proceeded, under orders from the OC 71 Regt RCHA, SHILO, Manitoba, to No 12 Military Detention Barracks, CAMP BORDEN, Ontario, in charge of two escorts. My orders were to receive two prisoners from No 12 Military Detention Barracks and escort them to SHILO.

On arrival at CAMP BORDEN I had a number of hours to wait before it was time to get the train. I instructed Gnr BEAUDIN, one of the escorts, to be present at 2300 hours, 5 SEP 49 to recieve prisoners.

At this time and date Gnr Beaudin failed to appear. This necessitated a day's wait.

At 2300 hours 6 SEP 49, under orders of the Provost, No. 12 Military Detention Barracks, I proceeded with the remaining escort and prisoners to SHILO.

At this time Gnr Beaudin was still absent.

Sir.

SP 16470 E. Bearss Sgt.

SP 16470, (E. BEARSS) Serjeant.
The Royal Canadian School of Infantry.

Certified that Rules of Procedure 4 (G) have been complied with and that Gnr BEAUDIN J B L accepts the above statement.

C D Tillsley

(C D Tillsley) 2/Lt, RCA
Officer detailed to take Summary of Evidence.

"B"

CERTIFICATE OF APPREHENSION OR SURRENDER TO SERVICE AUTHORITIES

I, ZK.2135 (Number) Captain (Rank) T. J. Quirk (Name), NDHQ Security Guard CProC (Unit)

hereby certify that SC.44666 (Number) GNR (Rank) BEAUDIN J.B.L. (Name in full)

of the RCS of A, SHILO, Man. (Unit and attachment, if any)

Strike out words) not applicable & initial)

was apprehended by ~~XXXXXXXXXXXX~~ SC.21177 (Number) SGT (Rank)

HILL, R. P. J. (Name), NDHQ Security Guard, C Pro C (Unit or appointment)

at RUSSELL (Place) Ontario at 1035 hrs (Hour)

on the 13th day of October 19 49

Strike out words) not applicable & initial)

as a deserter ~~XXXXXXXXXXXXXXXXXXXXXXXX~~ and that at the time of his arrest he was ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~ ~~XXXXXX~~ (dressed in civilian clothes).

Dated at OTTAWA, Ontario this 13th day of Oct 19 49

T. J. Quirk

(T. J. Quirk), Captain.
OC NDHQ Security Guard - C Pro C
(Signature

Last Part II Order No. 114

Dated 22 Oct 49

ROYAL CANADIAN SCHOOL OF ARTILLERY

PUBLISHED BY
Lt-col J W D SYMONS RCA
Commandant

This Order No. 119

Dated 25 Oct 49

Place SHILO, Man

"C"

HOLDING ESTABLISHMENT

"B" -- OTHER RANKS

1. ABSENCE WITHOUT LEAVE

(a) Apprehended at RUSSELL, Ont at 1035 hrs Cost of return $29.46

SC 44666 Gnr BEAUDIN J B L RCA 13 Oct 49

Certified True Copy

A/ Adjutant
Royal Canadian School of Artillery.

Last Part II Order No. 105

Dated 17 Sep 49

ROYAL CANADIAN SCHOOL OF ARTILLERY

PUBLISHED BY
Lt-col J W D SYMONS RCA
Commandant

This Order No. 106

Dated 21 Sep 49

Place SHILO, Man

2 0 8 0 1

HOLDING ESTABLISHMENT

"B" -- OTHER RANKS

23. ABSENCE WITHOUT LEAVE

(b) AWL from 2300 hrs

SC 44666 Gnr BEAUDIN JBL RCA 6 Sep 49

D C Kaye maj

Certified True Copy

D.B. Hampton Capt

Adjutant
Royal Canadian School of Artillery.

"Y"

D C Kaye
(D. C. Kaye) Major
President DCM

M.F.B. 355
50M—4-45 (7476)
H.Q. 1772-85-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
SC 44666	Gunner	BEAUDIN Jean Baptiste Laurent	RCSA

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

	Within last 12 months		Since enlistment or appointment	
For	AWL Sec 15(1)	One times	Nil	times
For		times		times
For		times		times
For		times		times

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

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

~~Note. If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

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

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

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

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

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 35 days in military custody, making a total of 35 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 24 years 3 months

6. The date of his attestation specified in his attestation paper 17 Feb 49

7. The service which the accused is allowed to reckon towards discharge is 9 months

8. The accused is entitled to reckon 6 mos service for the purpose 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 possession of or entitled to) State any air force decoration or reward.~~

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

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the ra~~

Permanent Force
unit

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

.....dated.....

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

C.D.F. ..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

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 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, Number SC 44666 Rank Gunner Air Force

Name BEAUDIN, Jean Baptiste Laurent of Royal Canadian School of Artillery Unit Regiment

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

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
S.C.M.	30 Jan 45 FARNHAM, Que	Sec 15(1) AWL Sec 24(2) Losing by Neglect	90 days Detn plus stop of $31.93	30 days and $6.93
S.C.M.	15 Oct 45 FARNHAM, Que	Sec 15(1) AWL Sec 24(2) Losing by Neglect	8 mos Detn plus stopp of pay $27.55	

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 17th day of NOVEMBER 1949 C.D. Vieloby A/Adjt RCSA

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.

Reg. No. SC 44666 Name BEAUDIN, Jean Baptiste Laurent Corps RCA

Signature O.C. Company, etc. [signature] CAPT. R.C.A.

ADJUTANT
ROYAL CANADIAN SCHOOL OF ARTILLERY

(D. C. Kaye) Major President DCM

Date of enlistment or enrolment 17 Feb 49

Date of Birth 5 Aug 49

Sheet No. 1 of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Previous Sheet destroyed in accordance with KR Can (1939) Para 1519 (3)(a)(1)									
			1st Charge						
FARNHAM, Que	13 Jun 44	Pte		AWL from 2359 hrs 13 Jun 44 to app by CPC in Ottawa at 1045 hrs 16 Jan 45, Abs 216 days, 10 hrs and 46 mins. AA Sec 15(1)	Documentary L/Cpl Park Pte Pietrocupa Major Gray CPC	90 days Detention plus stoppage of pay in amt of $31.93	30 Jan 45	S.C.M.	Total forf of 104 days pay.
			2nd Charge	LOSING by neglect - was deficient in his kit to amt of $20.97 AA Sec 24(2)	Documentary			Granted remission of 30 days det'n and $6.93	

H.F.M. 6—500M—8-44 (5386)
H.Q. 1772-39-1652

PTO

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
FARNHAM, Que	2 Apr 45	Pte		Sec 12(1)(a) AWL from 0100 hrs 2 Apr 45 until 1545 hrs 3 Oct 45 Sec.24(2) Defic of clothing, equip and regimental necessaries value of $27.55	Documentary	8 months Detention Stop of pay $27.55	15 Oct 45	S.C.M.	Forf 13 d.p FR&I 149(1)(c) (1)243 d.p FR&I 149 (1)(b) Forf 184 d.p. FR&I 149 (1)(a) Stopp of pay $27.55 FR&I 150(2)
Camp Borden Ont	20 Jun 49	Pte		Sec 15(1) AA. AWL from 0600 hrs 20 Jun 49 until apprehended by Civ Auth. at Russell Ont at 1530 hrs 15 Jul 49 (TTA 25 days 9 hours 30 mins)	Documentary	27 days Detention	18 Jul 49	LL Lapoint Lt-col	Forf 26 days pay and cost of app $6.67

MEDICAL OFFICER'S REPORT

I certify that No. SC 44666 Gnr BEAUDIN J B L

of R C S A is in a good state of health,

and is fit to undergo Trial by Court martial.

H H Radomski Med

Medical Officer

Station SNILO, Manitoba

Date 17 Nov 49

M. F. B. 246

30M - 3-44 (5437)

H.Q. 1772-39-480

H.Q.C. C.55-B-3599 CONFIDENTIAL

DEPARTMENT OF NATIONAL DEFENCE OTTAWA, CANADA | CROSS REFERENCE

SUBJECT

DISTRICT COURT MARTIAL

BOISVERT, E. PTE SE-103199

CONFIDENTIAL H.Q.C. C.55-B-3599

CENTRAL REGISTRY	DATE	P.A. OR B.F.	INITIALS	REFERRED TO	FOR REMARKS	INITIALS	DATE
				(If purpose for which referred cannot be expressed on one line, add minute to file and enter here "With Minute")			
				JAG	NEW FILE CR DEC 30 1949		
				D/admin	To note + PA	[illegible]	4/1/50
				DM	Per request	[illegible]	9 Jan 50
JAN 13 1950	13/1/50	PA	[illegible]	D/admin		MMD	11-1-50
JAN 28 1950	17/1/50	[illegible]	[illegible]	J.A.G.	WITH PAPERS CR JAN 25 1950	[illegible]	OK
FEB 13 1950	10/3/50	PA	[illegible]	J.A.G.	WITH PAPERS CR FEB 9 1950		
				DM.	PER REQUISITION CR MAR 13 1950		
				D/Pay		MMD	15.3.50
				DM	with HQ SE 103 199 memo p's	[illegible]	17 Mar 50
				D.M.(M)	" "	[illegible]	17 Mar 50
				Pay 2	" "	MMD	20-3-50
				D Pers.	with HQ SE 103199	[illegible]	30 Mar 50
JUN 30 1950	29 June 50	PA	[illegible]	Pay 2	With HQ SE 103199, p's return.	[illegible]	4 May 50

NOTICE

1. Files should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to D.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures it being completed and kept in order, and also gives others an opportunity to use same.
2. Central Registry should be notified whenever a file is passed direct to another branch.
3. All outgoing letters should bear the official file number.

PASS THIS FILE IN ENVELOPE

HQ [illegible]-B-S[illegible] (JAG/C)

XZXZX

The Office of the Judge Advocate General

February 10, 1950.

Assistant Judge Advocate General,
Headquarters, Quebec Command,
3530 Atwater Avenue,
MONTREAL, Que.

District Court-Martial
SE 130199 Pte. Etienne Boisvert
Royal 22e Rgt. RCIC

Receipt is acknowledged of your QC SE 130199 (J) dated 8th February, 1950, returning proceedings of the marginally noted District Court Martial.

WMWS/ML

(W.M.W. Shaw) Lt.-Col.
for Judge Advocate General.

IN REPLY PLEASE QUOTE No. QC.SE-103199 (J)

"CONFIDENTIAL"

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

"REGISTERED"

MONTREAL, Que.,
8 Feb 50.-

Judge-Advocate General,
Department of National Defence,
OTTAWA, Ont.

Referred to JAG
FEB 9 1950
File No 055-B-3599
Orig't to

District Court-Martial
SE-103199 Pte Etienne BOISVERT
Royal 22e Regt. RCIC

Reference your HQC 55-B-3599 (JAG/O) dated 27 Jan 50.-

2. Proceedings of the above-mentioned District Court-Martial are returned, with thanks.

(G.A.M. NANTEL) Major,
AJAG., Quebec Command.

Enc.

NAT. DEF. B. 440

CERTIFICAT DU MÉDECIN MILITAIRE

J. Maclaren

Je certifie que le matricule SE103 199 HE Bouvert

de R 22 R est dans un bon état de santé

et est apte à subir son procès devant une cour martiale.

W Raymond capt.
Médecin militaire

Poste Citadelle - Que,

Date 25 Nov 49

M. F. B. 246A
5M—11-44 (6094)
Q.G. 1772-39-480

A

FORMULE DE PROCES VERBAL DE COUR MARTIALE
DE DISTRICT

Procès verbal d'une Cour-martiale de District tenue à la Salle de Conférence, sous-sol, Quartier-Général du Secteur de l'Est du Québec, le 25e jour de novembre 1949, par ordre du Brigadier J.V. Allard, CBE, DSO, ED., Commandant du Secteur de l'Est du Québec,

en date du 23e jour de novembre 1949.

PRESIDENT

ZP-1337 Major J.L.G. Poulin, CIRC,
5ième Section A & T Staff, AC.

MEMBRES

ZD-2941, Capt. G.J. Boire, RCASC,
5ième Section A & T Staff, AC.,

ZD-2395, Capt. J.E.G. Surprenant, C Int C,
QG Région de Québec att QG Sec. de l'Est du Québec, AC.

ZC-1989, Major G.A.M. Nantel, Liste Gen.,
AJAG, Région de Québec, AC.,
JUGE AVOCAT

Procès de SE-103199, soldat Etienne Boisvert, CIRC,
Royal 22e Régiment, AC.

L'ordre de convocation de la Cour, l'acte d'accusation et le sommaire de la preuve sont déposés devant la Cour.

La Cour s'assure que les prescriptions des Règles de Procédure 22 et 23 ont été observées. &

L'accusé est amené devant la Cour.

Procureur: Capt. J.H. Primeau, CIRC,
4e Dépôt d'Effectif, AC.

Officier défenseur; ZD-2247, Capt. L.G. D'Artois, DSO, GM,
CIRC, Royal 22e Regt., AC.

L'audience commence à 1000 heures.

L'ordre de convocation de la Cour est lu et est marqué "X", signé par le Président et versé au dossier.

Les noms du Président et des membres de la Cour sont lus à portée d'oreille de l'accusé et chacun d'eux répond à l'appel de son nom.

Q.1 du Prés. à l'accusé — Avez-vous objection à être jugé par moi comme Président, ou par un des officiers que vous venez d'entendre nommer?

R.1 de l'accusé — Non, monsieur.

& Je me suis assuré qu'aucun des officiers désignés comme membres de la présente Cour n'a précédemment fait partie d'un conseil d'enquête constitué en vue d'instruire l'affaire dont est saisie la présente Cour-martiale.

J.L.G. Poulin Lt-Col
Prés. C.M.D.

Le Président, les membres et le juge-avocat sont dûment assermentés.

Q.2 Avez-vous objection à ce que mademoiselle Flore Turcotte, employée civile, et SE-21018 S/Sgt E.G. Dubé, soient employés comme sténographes?

R.2 Non, monsieur.

Mademoiselle Flore Turcotte et SE-21018 S/Sgt E.G. Dubé, sont dûment assermentés comme sténographes.

ACTE D'ACCUSATION

L'acte d'accusation est signé par le Président, marqué "B-2" et versé au dossier.

L'accusé est mis en accusation sur chacun des chefs mentionnés dans l'acte d'accusation ci-dessus.

Q.3 Sont-ce là votre matricule, votre grade, votre nom et votre unité?

R.3 Oui, monsieur.

Q.4 Etes-vous coupable ou non du premier chef d'accusation porté contre vous et dont vous venez d'entendre lecture?

R.4 Coupable, monsieur.

Q.5 Etes-vous coupable ou non du deuxième chef d'accusation porté contre vous et dont vous venez d'entendre lecture?

R.5 Coupable, monsieur.

L'accusé s'étant avoué coupable sur le premier et le deuxième chefs d'accusation, les prescriptions de la Règle de Procédure 35 (B) sont observées.

" B-2"

CHARGE SHEET

The accused, No. SE-103199, Private Etienne BOISVERT, Royal 22e Regiment, RCIC, a soldier of the Canadian Army (ACTIVE FORCE) is charged with:

FIRST CHARGE
Sec 15 (1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

at Valcartier Camp, Valcartier, P.Q., at 0800 hours, on 8 July 1947, absented himself without leave from the Royal 22e Regiment, RCIC, CA (AF), until he was apprehended by R.C.M.P., at Cochrane, Ontario, at 1630 hours, on 1 November 1949, dressed in civilian clothes, the cost of his apprehension and return to his Unit being $ 30.30

SECOND CHARGE
Sec 24 (2)
Army Act

LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING AND REGIMENTAL NECESSARIES,

in that he,

at the Citadel, Quebec, on 7 November, 1949 was deficient of the following articles:

		Vocabulary Rate	Less 25%
Clothing Division "A"			
Coat waterproof	1	$ 6.91	$ 5.19
Clothing Division "B"			
Blouse, B.D.	1	6.50	4.88
Boots, ankle	2	11.64	8.74
Drawers, cotton short	1	.42	.32
Jersey pullover	1	1.65	1.24
Socks, woollen,	4	1.84	1.40
Trousers, B.D.	2	13.10	9.84
Jacket, K.D.	1	3.42	2.57
Shirt, K.C.	2	3.90	2.94
Shoe, leather black	1	4.84	3.63
Clothing Division "C"			
Brush shaving	1	.42	.32
Brush, boot polish	1	.21	.16
Brush tooth	1	.09	.07
Holdall	1	.22	.17
Razor	1	.42	.32
Towels, hand	2	.62	.48
Clothing Division "D"			
Badge, cap	1	.09	.07
Clothing Division "K"			
Slip, pillow	1	.35	.26
			$ 42.60

(G.A. TURCOT) Lt-Col.,
Commanding Officer,
Royal 22e Regiment, R.C.I.C.,
Canadian Army (Active Force).

The Citadel,
Quebec, P.Q.,
16 November 1949.

TO BE TRIED BY DISTRICT COURT - MARTIAL

(J.V. ALLARD) - Brigadier,
Commander, E. Que. Area.

QUEBEC, QUE.,
23 Nov 49.

CC

PROCEDURE SUR UN AVEU DE CULPABILITE

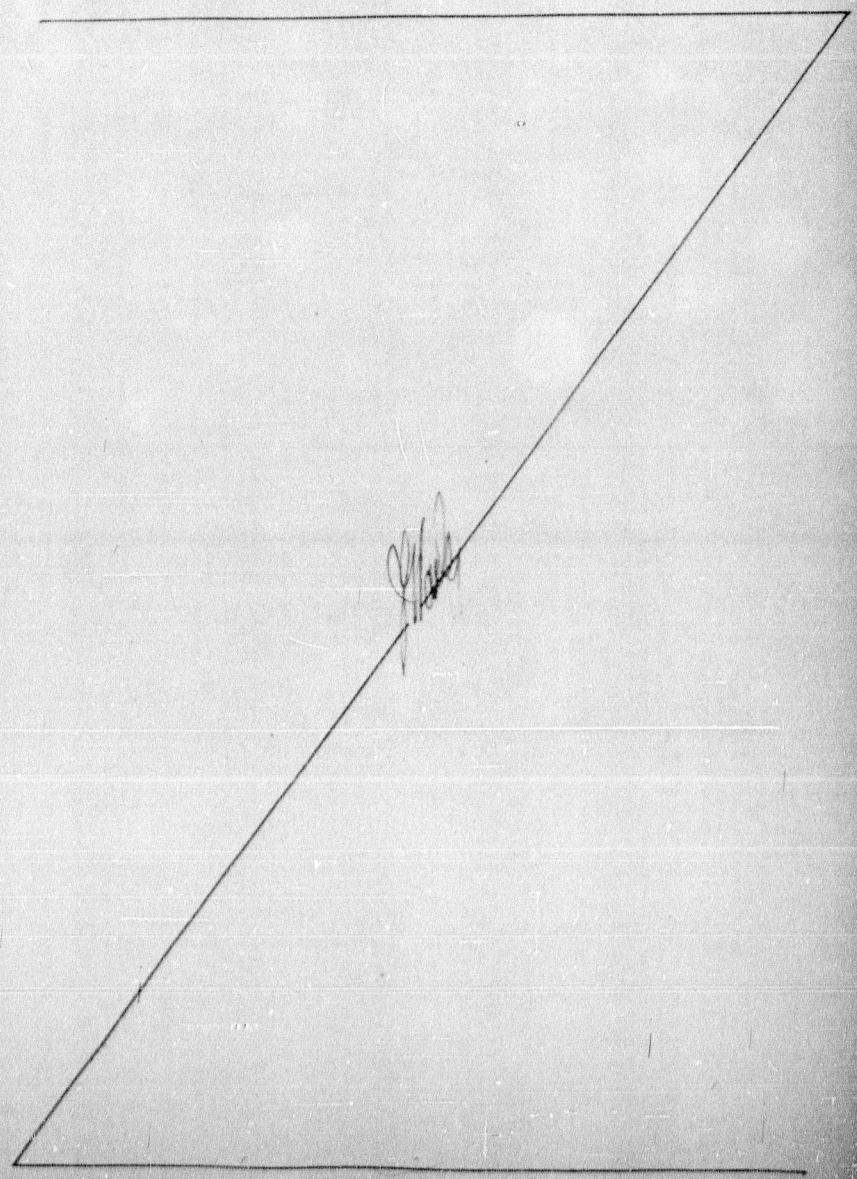
L'accusé, SE-103199, Soldat Etienne Boisvert,
Royal 22e Regiment, CIRC, AC.,

est déclaré coupable du premier et du deuxième chefs d'accusation, portés contre lui.

Q.6 Désirez-vous faire quelque déclaration par voie d'atténuation de peine?

R.6 Aucune, monsieur.

Le sommaire de la preuve est lu, marqué "G", signé par le Président et versé au dossier.



DD

Q.7 Désirez-vous faire une déclaration en atténuation de peine?

R.7 Non, monsieur.

Q.8 Désirez-vous témoigner vous-même ou citer des témoins à l'appui de votre réputation?

R.9 Non, monsieur.

PROCEDURE SUR DECLARATION DE CULPABILITE
PRECEDANT LA SENTENCE

ZE-2539, Capt. J.Y. Gosselin, CIRC, Adjudant, Royal 22e Regiment, est dûment assermenté:

Q.9 Avez-vous quelque preuve à produire quant à la réputation et les états de service de l'accusé?

R.9 Oui, monsieur. Je produis le MFM 6 et le MFB 355 dans le cas du soldat Desrochers.

La déclaration précitée est lue, marquée "Y" "Z", signée par le Président et versée au dossier.

Q.10 L'accusé est-il la personne nommée dans la déclaration dont vous venez d'entendre lecture?

R.10 Oui, monsieur.

Q.11 Avez-vous comparé le contenu de la déclaration précitée avec les livres régimentaires?

R.11 Oui, monsieur.

Q.12 Sont-ce des copies conformes des livres régimentaires et l'exposé des inscriptions figurant aux feuillets de punitions est-il un résumé juste et fidèle de ces inscriptions?

R.12 Oui, monsieur.

L'OFFICIER DEFENSEUR NE DESIRE PAS TRANSQUESTIONNER LE TEMOIN.

DE L'AVIS DE LA COUR ET DU JUGE AVOCAT, IL N'EST PAS NECESSAIRE DE SE CONFORMER A LA R.P. 83 (B)

LE TEMOIN SE RETIRE.

Q.13 Avez-vous quelque chose à dire à la Cour?

R.13 Oui, monsieur, par l'entremise de mon officier défenseur.

(Voir document marqué "H" ci-joint).

L'audience est levée pour délibérer sur la sentence.

F

SENTENCE

La Cour condamne l'accusé — Sentence

SE-103199, Pte. Etienne BOISVERT, CIRC, Royal 22e Régiment, AC., — Détention 150 jrs.

à 150 jours de détention.

ANNONCE DE LA SENTENCE

L'audience étant reprise, l'accusé est ramené devant la Cour.

La sentence est annoncée en séance ouverte; la sentence est annoncée comme étant sujette à confirmation.

SIGNATURE

Signé à QUEBEC, Qué.,

ce 25e jour de novembre A.D. 1949.

(G.A.M. NANTEL) Major
Juge-avocat

(J.L.G. POULIN) Major,
Prés. C.M.D.

CONFIRMATION

Je modifie la sentence pour qu'elle soit ainsi qu'il suit: 21 jours de détention au lieu de 150 jours, et confirme les conclusions et la sentence ainsi modifiées.

Signé à QUEBEC, Que.,

ce **dix-septième** jour de **décembre** A.D. 1949.

(J V ALLARD) Brigadier
Commandant du Secteur
Secteur de l'Est du Québec

PROMULGATION

Promulgation faite et extraits pris a la Citadelle, Quebec P.Q. ce 17e jour de decembre 1949.

(J.Y. Gosselin) Capt
Adjudant
Royal 22e Regiment RCIC

Extracts entered as No. 47179 in the Record of Courts-Martial kept in the office of the Judge Advocate-General this 24 day of January 1950

"X"

ORDRES DU BRIGADIER J V ALLARD, CBE, DSO, ED.,

Commandant du Secteur de l'Est du Québec

Pour CMD

COUR MARTIALE DE DISTRICT QUEBEC QUE 23 NOV 49

SE-103199 soldat Etienne BOISVERT, CIRC
Royal 22e Régiment, CIRC, AC.,

Le détachement d'officiers dont les noms paraissent plus bas se rassemblera à la Salle de Conférence, sous-sol, Quartier-Général du Secteur de l'Est du Québec, vendredi, le 25ième jour de novembre 1949, à 1000 heures, afin de juger en cour martiale de district l'accusé dont le nom parait en marge (et les autres personnes traduites par devant eux).

PRESIDENT

ZP-1337 Major J.L.G. POULIN, CIRC
5ième Section A&T Staff, AC., est appointé président.

MEMBRES

ZD-2941 Capt G.J. BOIRE, RCASC
5ième Section A&T Staff, AC.,

ZD-2395 Capt J.E.G. SURPRENANT, C Int C
QG Région de Québec, att QG Secteur de l'Est du Québec, AC.,

MEMBRE SUPPLEANT

ZD-365 Capt W.E. SUTHERLAND, CIRC
5ième Section A&T Staff, AC.,

JUGE-AVOCAT

ZC-1989 Major G.A.M. MANTEL, Liste Gen.,
AJAG Région de Québec, AC., a été nommé juge-avocat.

PROCUREUR

Capt J.H. PRIMEAU, CIRC
41ème Dépot d'Effectif, AC., a été nommé procureur.

OFFICIER DEFENSEUR

ZD-2247 Capt L.G. D'ARTOIS, DSO, CM., CIRC
Royal 22e Régiment, CIRC, AC.,
est par les présentes nommé Officier Défenseur.

2. L'accusé sera prévenu et l'on convoquera dûment les témoins.

3. L'Officier Commandant, Royal 22e Régiment, CIRC, AC., prendra des dispositions en vue de fournir la papeterie, le planton du tribunal et l'escorte nécessaires à l'audience. Les quartiers seront fournis et les sténographes désignés par ce Quartier-Général.

4. Le compte rendu des délibérations sera expédié à l'A. & Q.M.G.A. Suppléant du Secteur de l'Est du Québec.

SIGNE à Québec, P.Q., ce 23ième jour de novembre 1949.

Pour le Commandant
du Secteur de l'Est du Québec

(J E GRENIER) Major
A. & Q.M.G.A. Suppléant
Secteur de l'Est du Québec

"G"

SUMMARY OF EVIDENCE

in the case of

No SE-103199 Private Etienne BOISVERT, Royal 22e Regiment, R.C.I.C., Canadian Army (Active Force) is charged with:

(1) ABSENTING HIMSELF WITHOUT LEAVE

(2) LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING AND REGIMENTAL NECESSARIES

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

1st WITNESS

ZE-2539 Captain J.Y. GOSSELIN, Adjutant Royal 22e Regiment, R.C.I.C., having been duly sworn , states:

I am ZE-2539 Captain J.Y. Gosselin, Adjutant of the Royal 22e Regiment, RCIC, Canadian Army (Active Force) and have been since 14 January 1949. As Adjutant I have the custody of the Regimental books of the Unit and the documents of the accused, whom I recognize as No. SE-103199, Private Etienne Boisvert, Royal 22e Regiment, RCIC, Canadian Army (Active) Force).

I produce the following documents, all referring to the accused, Private Etienne Boisvert:

(1) Certified true extracts of Part II Orders of the Royal 22e Regiment, RCIC, Canadian Army (Active Force) No. 80 dated 12 July 1947, No. 82 dated 17 July 1947, No. 87 dated 29 July 1947.

(2) MFB 375, being certified true copy of the Record of the Declaration of the Court of Inquiry, inquiring into the absence of the accused, dated 30 July 1947, and duly certified by me as Adjutant and Officer having custody of the original record.

(3) Certificate of apprehension of the accused, in accordance with Army Act 163 (1) (m) purporting to be signed by No. 14779 Constable J.A. Hornett, R.C.M.P., Timmins, Ont., and Constable R. Belanger R.C.M.P., Timmins, Ont.

(4) Royal 22e Regiment, RCIC, Part II Order No. 81 dated 9 November 1949, showing the accused taken on strength on apprehension.

(5) Certificate of cost of apprehension purporting to be signed by Capt P.F. Gosselin for Area Supplies and Transport Officer, Eastern Quebec Area, in accordance with K.R. (Can) para 500A. Cost of apprehension from Camp Borden, Ont., to Quebec, $15.46.

...../ 2

(6) Army message received from Central Command Provost Company stating that the cost of apprehension of Pte E. Boisvert from Timmins, Ont., to Camp Borden, Ont., is $14.84, and certificate signed by Major W.H. Chisholm 2 Coy RCASC.

The accused declines to cross-examine the witness.

(J.Y. GOSSELIN) Captain
Royal 22e Regiment, RCIC.

2nd WITNESS SP-48735, CQMS Joseph COUET, Royal 22e Regiment, RCIC, Canadian Army (Active Force), being duly sworn, states:

I am SP-48735, CQMS Joseph COUET of the Royal 22e Regiment, RCIC, Canadian Army (Acti ve Force). On the 7 November 1949, I held a kit inspection in connection with the accused, NO.SE-103199 Private Etienne Boisvert, and checked his kit. I found that he did not have and was deficient of the following articles, with their vocabulary and 75%:

Clothing Division "A"		Vocabulary Rate	Less 25%
Coat waterproof	1	$ 6.91	5.19
Clothing Division "B"			
Blouse, B.D.	1	6.50	4.88
Boots, ankle	2	11.64	8.74
Drawers, cotton, short	1	.42	.32
Jersey pullover	1	1.65	1.24
Socks, woollen,	4	1.84	1.40
Trousers, B.D.	2	13.10	9.84
Jacket, K.D.	1	3.42	2.57
Shirt, K.C.	2	3.90	2.94
Shoe leather, black	1	4.84	3.63
Clothing Division "C"			
Brush, shaving	1	.42	.32
Brush, boot polish	1	.21	.16
Brush, tooth	1	.09	.07
Holdall	1	.22	.17
Razor	1	.42	.32
Towels, hand	2	.62	.48

...../3

2nd WITNESS	Clothing Division "D"		Vocabulary Rate	Less 25%
	Badge, cap	1	.09	.07
	Clothing Division "K"			
	Slip, pillow	1	.35	.26
				$ 42.60

The accused declines to cross-examine the witness.

Jos Couet C.Q.M.S.

(Joseph Couet) CQMS
Royal 22e Regiment, RCIC.,
Canadian Army (Active Force).

3rd WITNESS

No. SE-6080, L/Cpl A. DESGAGNE, Canadian Provost Corps, on strength of Royal 22e Regiment, RCIC, as Service Police, having been duly sworn states:

I am No.SE-6080, L/Cpl A. Desgagne, Canadian Provost Corps, on strength of Royal 22e Regiment, RCIC, as Service Police. On the 2nd November 1949, I was ordered by Captain J.Y. Gosselin, Adjutant of the Royal 22e Regiment to proceed to No. 12 Military Detention Barracks, Borden, to escort to Quebec No. SE-103199, Private Etienne Boisvert, a deserter from the Royal 22e Regiment. Upon arrival at No. 12 Military Detention Barracks, I was told that Pte Boisvert was in custody at Timmons, Ont. Pte Boisvert was delivered to me at Borden, on the 5th of November 1949: he was then dressed in civilian clothes. I returned to Quebec with the prisoner and placed him in custody upon arrival.

The accused declines to cross-examine the witness.

A. Desgagne

A. DESGAGNE) L/Cpl
Canadian Provost Corps

QUESTION TO THE ACCUSED:

Do you wish to make any statement or give any evidence upon oath? You are not abliged 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 THE ACCUSED

I have no statement or evidence to give.

Etienne Boisvert

(Etienne Boisvert) Private
Royal 22e Regiment, RCIC.

...../4

The accused declines to call witnesses in his defence.

I certify that the foregoing Summary consisting of four (4) pages was taken down by me in the presence of the accused at the Citadel, Quebec, P. Q., this 15th day of November 1949 and that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

(J.P. Dubreuil) Lt.
Royal 22e Regiment, RCIC, CA (AF)
Officer detailed to take this
Summary of Evidence.

LIST OF EXHIBITS

EXHIBIT "A" Certified true extract of Part II Order of the Royal 22e Regiment, RCIC, No 80 dated 12 July 1947 published by Lt-Col J.A.G. Roberge, OBE, ADC, Commanding Officer.

EXHIBIT "B" Certified true extract of Part II Order of the Royal 22e Regiment, RCIC, No. 82, dated 17 July 1947, published by Lt-Col J.A.G. Roberge, OBE, ADC, Commanding Officer.

EXHIBIT "C" Certified true extract of Part II Order of the Royal 22e Regiment, RCIC, No. 87, dated 29 July 1947, published by Lt-Col J.A.G. Roberge, OBE, ADC, Commanding Officer.

EXHIBIT "D" Record of the Declaration of the Court of Inquiry assembled at Valcartier Camp, P.Q., on 30 July 1947.

EXHIBIT "E" Certificate of apprehension of the accused, in accordance with A.A. 163 (1) (m) signed by Constable J.A. Hornett, RCMP.

EXHIBIT "F" Royal 22e Regiment, RCIC, Part II Order No. 81, dated 9 November 1949, published by Lt-Col G.A. Turcot, ADC.

EXHIBIT "G" Certificate of cost of apprehension signed by P.F. Gosselin, for AS & TO, EQA.

EXHIBIT "H" Message received from Central Command Provost Coy showing cost of apprehension from Timmins, Ont., to Camp Borden, Ont.

EXHIBIT "I" Certificate in accordance with KR (Can) 500 A and signed by Major W.H. Chisholm, 2 Coy RCASC.

(J.P. DUBREUIL) Lt
Royal 22e Regiment, RCIC.

STATEMENT BY ACCUSED AS TO HIS REPRESENTATION
BY AN OFFICER AT THE TRIAL

I, No. 103199 Private Etienne Boisvert, Royal 22e Regiment, RCIC, Canadian Army (Active Force), desire to have an officer assigned to represent me at my trial by Court-Martial.

I desire the services of Captain G. D'Artois, D.S.O., G.M., Royal 22e Regiment, if he is available.

Signed at the Citadel, Quebec, P.Q., this 16th day of November, 1949.

Etienne Boisvert

(Etienne Boisvert) Private
Royal 22e Regiment, R.C.I.C.

LIST OF WITNESSES FOR THE PROSECUTION

ZE-2539	Capt	J.Y. GOSSELIN,	Adjutant Royal 22e Regiment, The Citadel, Quebec.
SP-48735	CQMS	COUET, J.	Royal 22e Regiment, The Citadel, Quebec.
SE-6080	L/Cpl	DESGAGNE, A.	Royal 22e Regiment, The Citadel, Quebec.

The Citadel,
Quebec, P.Q.,
16 November 1949.

(J.P. DUBREUIL) Lt
Royal 22e Regiment, RCIC.

Exhibit "A"

Last Part II Order No 79

Dated 9 July 1947

This Order No 80
Dated 12 July 1947
Valcartier Camp, P.Q.

ROYAL 22e REGIMENT RCIC
Published by
LIEUT COLONEL J A G ROBERGE OBE ADC
OFFICER COMMANDING

---

9. ABSENT WITHOUT LEAVE

a) AWL from 0800 hrs SE-103199 Pte BOISVERT E RCIC 8 Jul 47

(S.R. COMTOIS) Lieut
A/Adjutant
Royal 22e Regiment RCIC

TRUE EXTRACT

(J.Y. GOSSELIN) Capt
Adjutant
Royal 22e Regiment RCIC

8 November 1949

Exhibit "B"

Last Part II Order No 81
Dated 15 July 1947

This Order No82
Dated 17 July 1947
Valcartier Camp, P.Q.

ROYAL 22e REGIMENT RCIC
Published by
Lt. Colonel J A G ROBERGE CBE ADC
OFFICER COMMANDING

---

6. ABSENT WITHOUT LEAVE

a) AWL from 0800 hrs (8Jul 47)
Still absent (8th day)

- SE-103199 Pte BOISVERT E RCIC 15 Jul 47

(S.R. COMTOIS)Lieut
A/Adjutant
Royal 22e Regiment RCIC

TRUE EXTRACT

(J.Y. GOSSELIN)Capt
Adjutant
Royal 22e Regiment RCIC

8 November 1949

Exhibit "C"

35

Last Part II Order No 86

Dated 26 Jul 47

This Order No 87
Dated 29 Jul 47
Valcartier Camp, P.Q.

ROYAL 22e REGIMENT RCIC
Published by
LIEUT COLONEL J A G ROBERGE CBE ADC

---

8. ABSENT WITHOUT LEAVE

a) AWL from 0800 hrs (8 Jul 47)
Still absent 0800 hrs
(22nd day) SE-103199 Pte BOISVERT E RCIC 29 Jul 47

(S.R. COMTOIS)Capt
Adjutant
Royal 22e Regiment RCIC

TRUE EXTRACT

(J. Y. GOSSELIN) Capt
Adjutant
Royal 22e Regiment RCIC

Exhibit

RECORD of the Declaration of a Court of Inquiry assembled at Valcartier, P.Q.

on the 30 th day of July 1947, 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. SE-103199 Pte BOISVERT, R. Royal 22e Regiment

DECLARATION

The Court declare that No. SE-103199 (Regt'l No.) Pte (Rank)

BOISVERT, R. (Full Name) R. 22 R. (Unit)

illegally absented himself without leave

at Valcartier Camp (Place) at 0800 hours on the 8 th day of July 1947

that he is still so absent, and that on the 30 th July 1947 he was deficient, and that he is still deficient of the following articles:—

	ARTICLES	100%	VALUE 75%		ARTICLES	100%	VALUE 75%
1	Blouse B.D	6.50	4.88	2	Towel hand	.62	.46
2	Boots Ankles	11.64	8.74	1	Coat waterproof	6.91	5.19
1	Drawers cotton S	.42	.32	1	Jacket K.D.	5.42	3.87
1	Jersey Pullover	1.65	1.24	2	Shirts cotton K	3.90	2.94
4	Socks Wollen	1.84	1.40	1	Shoes L.B.	4.84	3.63
2	Trousers B.D.	13.10	9.84	1	Slip Pillow	.35	.26
1	Badge Cap	.09	.07				
1	Brush Shaving	.42	.32				
1	Brush Boot Pol	.21	.16			$ 56.64	$ 42.60
1	Brush Tooth	.09	.07				
1	Holdall	.22	.17				
1	Razor	.42	.32				

J. BUREAU (Name) Capt (Rank) R. 22 R. (Unit) President

R. Leclerc (Name) Lt. (Rank) R. 22 R. (Unit) Member

M. Filardeau (Name) Lt. (Rank) R. 22 R. (Unit) Member

Signed at Valcartier Camp, P.Q.

this 31 st day of July 1947

Signature of Commanding Officer G. Roberge (Name) Lt-Col (Rank) R. 22 R. (Unit)

Certified true copy (J.Y. GOSSELIN) (Name) Captain (Rank) Adjutant Royal 22e Regiment. (Unit)

(Signature of Officer having custody of original record)

M.F.B. 375
A.F.B. 135
200M—1-44 (3576)
H.Q. 1772-39-357

Exhibit "E"

APPREHENSION/SURRENDER

Certificate in accordance with Sec. 163(1)(m) of A.A.

I certify that the person whose description is given below was arrested ~~xxxxxxxxxxxx~~ at Cochrane, Ontario (Place), at 4.30 P.M. (hour) on the 1st. day of November, 19 49.

Regimental particulars of offr or soldier referred to above	No. SE 103199
	Rank Pte.
	Name Etienne BOISVERT
	Unit R 22 e R
Description:	Age 19
	Height 5' 8"
	Complexion Fair
	Hair Lt. Brown
	Eyes Grey
	Marks Nil

Signature of officer of police in charge of police station where the above-named person was taken or placed in custody, on arrest ~~xxxxxxxxxx~~

J A Hornett Cst.
(J. A. Hornett) 14779
(Signature)
R.C.M.P. Timmins, Ont.
(~~xxxxxxxxxx~~ Cst. R. Belanger
Timmins Police station).

Last Part II Order No 80

Dated 7 Nov 1949

ROYAL 22e REGIMENT RCIC
Published by
LT COL G A TURCOT ADC
OFFICER COMMANDING

This Order No 61
Dated 9 November 1949
Citadel Quebec, P.Q.

5 0 1 0 3

"A" OFFICERS

1. STRENGTH INCREASE

a) TOS from RCS of I Auth Pers 17827 Inf d/21 Oct 1949	ZE3333	Lt	P	SAVARD	RCIC	2 Nov 49

2. MONTHLY ALLOWANCES

a) Ceases to draw Sub Allce of $73.00 p/m Auth Para 150 P&A (Army)	ZE219	Capt	JPG	FERGUSSE	RCIC	31 Oct 49
	ZD2269	Lt	JAR	GIGUERE	RCIC	1 Nov 49

"B" OTHER RANKS

3. STRENGTH INCREASE

a) TOS from CATR St Jean, P.Q. Auth QC-SD/121561 (A2) d/20 Oct 49	SD121561	Pte	ST FRANCOIS	J P	RCIC	7 Nov 49
b) TOS on Apprehension at 1630 hrs	SE103199	Pte	BOISVERT	E	RCIC	1 Nov 49

4. ATTACHMENTS

a) Att FAP to No 5 Coy RCEME	SE103625	Pte	TANGUAY	Y	RCIC	9 Nov 49

5. TRANSFERS

a) Transferred from RCIC to RCEME Auth Pers 18354 d/29 Oct 49	SE103460	Pte	GINGRAS	R	RCIC	9 Nov 49

6. HOSPITAL

a) Adm to QMH (Sick)	SE103640	Pte	LACHANCE	L	RCIC	21 Oct 49
b) Disch from QMH	SA110113	Pte	LAVOIE	R	RCIC	7 Nov 49

7. LEAVES

59

a) Granted 7 days Annual Leave	SE6080	L/Cpl	DESGAGNE	A	RCIC	8 Nov 49
b) Granted 16 days Annual Leave with Ration Allce of $20.00 p/m	SE20662	Cpl	LEVESQUE	J C E	RCIC	11 Oct 49
c) Granted 30 days Sick Leave p/m Auth P&H 117A d/7 Nov 49	SA110113	Pte	LAVOIE	R	RCIC	7 Nov 49
d) Ret from Annual Leave	SE103633	Pte	MICHAUD	M H	RCIC	4 Nov 49

UNITY: ROYAL 22e REGIMENT RCIC (SHEET THREE) DATE: 9 NOV 49 D.O. 81 50-103

7. LEAVES (Cont'd)

CANCELLATION

e) Granted 8 days Annual Leave with Ration Allce of $20.00 p/m DO/77 Para (i) d/31 Oct 49	SE102359	Pte	BOUDREAU	L	RCASC	31 Oct 49
f) Granted 15 days Annual Leave with Ration Allce of $20.00 p/m DO/46 Para 5 (d) d/15 Jul 49	SE103185	Pte	BOURBOING	L	RCIC	1 Jul 49

8. MONTHLY ALLOWANCE

a) To draw Sub Allce of $54.00 p/m Auth Para 150 P&A (Army)	SD121561	Pte	ST FRANCOIS	JP	RCIC	7 Nov 49
b) Ceases to draw Sub Allce of $54.00 p/m Auth Para 150 P&A (Army)	SE103460	Pte	GINGRAS	R	RCIC	9 Nov 49

9. NEXT-OF-KIN:Verification of-

a) Mrs Rachel Hache (Wife) 149 Villebon St Pascal, Quebec, P.Q.	SF39432	Pte	HACHE	JA	RCIC	5 Nov 49

10. STRENGTH DECREASE

a) SOS to No 5 Coy RCEME Auth Pers 18354 d/29 Oct 49	SE103460	Pte	GINGRAS	R	RCIC	9 Nov 49

11. "C" MISCELLANEOUS

RCN

a) Ceases att for Rations & Quarters	9823H	AM2C	CHAMPIGNY	D	RCN	5 Nov 49

(J.Y. GOSSELIN) Capt,
Adjutant
Royal 22e Regiment RCIC

Exhibit "G"

QUEBEC, Que., 8 Nov 49

COST OF APPREHENSION
SE-102199 Pte BOISVERT, E.

This is to certify that Transport Warrant No. 150531 was issued in favour of the marginally named soldier. This warrant covers one (1) single coach class from Camp Borden, Ont. to Montreal, Que. ($8.54), one (1) first class from Montreal, Que. to Quebec, Que. ($4.92), one single upper berth ($2.00). One (1) dinner at $2.00 was also issued but is not chargeable against the accused in accordance with KR (Can) 500 (a). Total cost: $15.46.

Capt
(R. de la D. Girouard) Major,
Area Supplies and Transport Officer
ESATEEN QUEBEC AREA.

Exhibit "H"

MP 46

PJD 133

OJ 145 LT

BO 62

PP JCPMQ

DE JCOB 69

P Ø92Ø5ØZ

FM CENT COMD PRO COY

TO OC R22R QUEBEC

GRNC

IN

Nov 09 21 39Z49

CBP 159 RETEL A1714 REEERS COST OF TN FROM TIMMINS TO CAMP BORDEN FOR SE109199 PTE BOISVERT E(.) TOTAL COST OF TICKET AND BERTH IS $14.84 (.) MEAL TICKETS ARE NOT CHARGEABLE AGAINST ACCUSED (.) CERTIFICATE UNDER KR(CAN) 500(A) BEING FORWARDED BY S&T CAMP BORDEN

CFN 159 A1714 TN SE103199 BOISVERT E $14.84 500(A)

CCC BEING FORWARDED

09/2053Z

CONFIRMATION
Signal Office
Eastern Quebec Area
Quebec, P.Q.

(Sgd)
Lt LABROSSE

Phoned by..B.B..to.....
Date...9....Time.....1650..... hrs

Tel: 4-3510 Loc. 45

CERTIFIED TRUE COPY

(J.Y. GOSSELIN) Capt
Adjutant
Royal 22e Regiment, RCIC.

Exhibit "I"

ABSENTEES AND DESERTERS

CERTIFICATE IN ACCORDANCE WITH KR (Can) 500 A

(Transportation and accommodation of alleged deserter or absentee without leave)

Fill in Complete Description

I, MAJOR (Rank) W.H. CHISHOLM (Name) 2 COY, RCASC (Unit)

Hereby certify that I issued the hereinafter itemized transportation for the purpose of returning:

Full Description of absentee or Deserter

SZ 103199 (Number) Pte (Rank) BOISVERT, R. (Name)

Royal 22e Regiment (UNIT)

an alleged deserter or absentee without leave, to his unit or station. The facts, date and particulars of the transportation and accommodation required and the cost thereof for the said soldier being as follows:-

PARTICULARS	COST
Cost of one single first class militia fare from Swastika, Ont. to Camp Borden, Ontario. 344 miles @ .03¢	10.32
Cost of one single second class militia fare from Timmins, Ont., to Swastika, Ont. 93 miles @ 2 1/6 ¢	2.02
Cost of one lower standard berth from Swastika Ont., to Allandale, Ontario.	2.50
Issued on Camp Borden Transport Warrant (CAB 32) No 125671 dated 2 Nov 49.	
TOTAL	$ 14.84

Dated at Camp Borden, Ontario. This 9th day of NOVEMBER AD 1949

W.H. Chisholm

(W.H. Chisholm) Major, 2 Coy. RCASC
Signature, rank, unit of Officer Issuing Transport warrants

Certificate to be completed by officer who issued or authorized the transportation and accommodation for the return to his Corps, unit or station of a soldier alleged to be a deserter or absentee without leave. Transport ion and accommodation only to be set forth.

Any expenses incurred by or on account of the escort will NOT be included in this form.

PLAIDOYER DE L'OFFICIER DEFENSEUR EN MITIGATION DE SENTENCE

"Monsieur le président, messieurs les membres de la Cour:

Vous avez ici un jeune homme de 23 ans, marié depuis quelques mois, qui vient d'une famille assez nombreuse, son père est décédé, il reste trois ou quatre enfants, un qui étudie au Séminaire et une petite fille de 10 ans. La mère comme revenus reçoit son allocation du gouvernement pour les enfants. Le plus vieux n'est pas très bien et il n'a jamais aidé sa mère et il demeure à Limoilou. L'accusé a demandé pour avoir un transfert mais il n'a pas eu son transfert. Finalement, on lui a accordé d'aller suivre une cours de signaleur à Kingston, mais rendu à Kingston, qu'est-ce qui se passe? Pour cinq mois on a mis l'accusé dans une cuisine à laver la vaisselle. Ce n'est pas une unité de signaux ça mais c'est de la vaisselle. De là on le met dans les barraques. Ce n'est pas ce que l'accusé veut. Il va trouver l'R.S.M., c'est bien simple, l'accusé voulait des renseignements, mais le Sergeant Major le sort, out, il ne lui demande pas ce qu'il voulait, s'il pouvait lui aider mais il lui dit de retourner à la vaisselle ou au barraques. Je dois vous dire que l'accusé a une 10ème année, ce n'est pas un ignorant, il lui est permis d'avoir certaines ambitions, surtout lorsque l'on doit aider ses parent. Je regrette que la température soit si mauvaise car j'aurais demandé sa mère ici. Est-ce qu'il serait aussi nécessaire de produire un certificat du médecin que la mère souffre d'une maladie du coeur. C'est le plus vieux à la maison. Quand il était garçon, il donnait $90 par mois à la famille, maintenant il est marié il ne peut en donner que $20 ou $30. Il faut avoir certains principles. L'accusé ne vous demande pas beaucoup. l'accusé vous demande votre clémence, il a une femme, il a des assurances à payer, il a la responsabilité de sa famille. De plus, l'accusé n'est pas tellement sur le pagé, puisque le C.N.R. va lui donner sa position du moment que vous le laisserez aller, et c'est un service du gouvernement. Je vous demanderais, s'il y avait possibilité

même de laisser l'individu aller sur les 24 jours qu'il a fait acutellement en détention. Justice militaire serait faite car il aurait servi 24 jours de détention, il pourrait perdre sa paye, il pourrait même répondre de l'argent pour son équippement et dire un point c'est tout. Qu'est-ce que nous aurons gagné que justice soit faite. Voyons messieurs, vous en avez vu bien d'autres. On regarde l'individu par l'uniforme qu'il porte mais en même temps je vous demanderais d'user un peu de physiologie. Vous savez comment un ordre se donne dans l'armée, un ordre se donne et c'est tout. Je reviens toujours à cette question de "men management". Les gens ne savent pas comment s'y prendre avec les hommes. C'est facile de dire, j'ai des galons, je donne des ordres, mais il y a aussi les responsabilités qui en dérivent et comment conduire les hommes. Quelle en est la raison, il ne faut pas le dire trop vite. Pour clore, messieurs, je demanderais qu'on considère cette affaire close, 24 jours faits, reprendre l'argent pour l'équippement et laisser l'individu aller. Au point de vue militaire on ne peut pas se servir de ce cas-ci pour un exemple. Pensez à ses responsabilités, pensez à ses finances, pensez à sa famille. Il n'a pas volé, il n'a pas tué. Dans le civil on a l'opportunité de changer de position, de donner un avis, dans le service militaire ça ne devrait pas être plus difficile. Il n'a pas eu justice à Kingston, il ne veut plus aller à Kingston, ni même ailleurs. Peut-être qu'à Kingston, l'accusé ne pouvait pas s'exprimer en anglais, c'est très possible. Je vous demanderais de bien peser mes mots avant de le condamner. Encore une fois, votre clémence, s'il vous plait.

Reg. No. S-103199 Name BOISVERT, E. Corps C.I.C. Date of enlistment or enrolment 18 Apr 45 Date of Birth 30 Aug 26 M.F.M. 6

Signature O.C. Company, etc. J.G. Rulmin Pres C.M.D.

One

Sheet No. ..... of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Valcartier	22 Aug 45	Pte		A.A. Sec. 15 (1)AWL from 0630 hrs 22 Aug 45 to 0800 hrs 11 Sep 45. Total 21 days 1 hr 30 mins.	Documentary	22 days pay	14 Sep 45	Col Cliche	10 dys pay FR&I 149 (1)a

CERTIFIED TRUE COPY

J.Y. Gosselin

(J.Y. GOSSELIN) Capt
Adjutant
Royal 22e Regiment, RCIC

M.F.M. 6—500M—4-45 (7234)
H.Q. 1772-39-1652

(P.T.O.)

Reg. No. S-E-103199 Name Pte BOISVERT Etienne Corps R.C.C.S. Date of enlistment or enrolment 15 Feb 47 Date of Birth 30 Aug [illegible]

Signature O.C. Company, etc. Sheet No. 1 of *1, 2, 3, 4, 5

*Place check mark against number of sheets in use.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Vimy Barracks Kingston, Ont.	8 Apr 47	Sigmn		AWL from 0645 hrs 8 Apr 47 to 1345 hrs 8 Apr 47 (Absent 7hrs)	SD148814 Cpl Clarke, K.A. SC48843 Cpl Cooper, A.E.	Admonished	8Apr47	Major N.E. Hancock	Forf 1 days pay under P & A Regs 46, para 286 (a)
Vimy Barracks, Kingston Ont.	5 May 47	Sigmn		AWL from 0645 hrs 5 May 47 to 0645 hrs 6 May 47 (Absent 24 hrs)	Documentary Cpl Clarke, K.A.	14 days CB	6 May 47	Maj D.H. George	Forf 1 days pay under P & A(Army) 286 (a)
				CERTIFIED TRUE COPY	(J.Y. GOSSELIN) Capt Adjutant Royal 22e Regiment, RCIC.				

M.F.M. 6—500M—4-43 (7234)
H.Q. 1772-30-1352

(P.T.O.)

"2"

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
SE-103199	Private	Etienne BOISVERT	Royal 22e Regiment, RCIC

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

	Within last 12 months		Since enlistment or appointment	
For	NIL	times	AWL Sec 15 (1)	3 times
For		times		times
For		times		times
For		times		times

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

2. The accused has not been previously convicted

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

day of

4. The accused has been in confinement awaiting trial on the present charges, for 21 days in civil custody, and 24 days in military custody, making a total of 24 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service is 23 yrs 2 mths 26 days

6. The date of his attestation specified in his attestation paper CA(A) 18 Apr 45 10 May 46 and attestation paper CA(AF) 15 Feb 47

7. The service which the accused is allowed to reckon towards discharge is 2 mths 20 days

8. The accused is entitled to reckon 1 yr 7 mths 9 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration, or military reward

10.

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

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

.....dated.....

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

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

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

Name.....of.....Unit Regiment

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

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

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 25th day of November 1949 (J.V. GOSSELIN) Capt
Adjutant
Royal 22e Regiment, R.C.

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.

HQC 55-B-3599 (JAG/C)

XXXXXX

THE OFFICE OF THE JUDGE ADVOCATE GENERAL

January 27, 1950.

Assistant Judge Advocate General,
Headquarters, Quebec Command,
3530 Atwater Avenue,
MONTREAL, Que.

District Court-Martial
SE 103199 Pte Etienne BOISVERT
Royal 22e Rgt. RCIC

Pursuant to your QC SE 130199 (J) dated 23rd January, 1950, I enclose herewith the proceedings of the marginally noted District Court Martial.

May these proceedings be returned when they have served your purpose.

WMWS

(W.M.W. Shaw) Lt.-Col.
for Judge Advocate General.

WMWS/ML
4923
encls.

IN REPLY PLEASE QUOTE No. QC. SE-130199 (J)

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

MONTREAL, Que.,
23 January 1950.-

Judge Advocate-General,
Department of National Defence,
OTTAWA, Ont.

Referred to JAG
JAN 26 1950
File No QSS-B-3599
Card to

District Court-Martial
SE-103199, Pte Etienne BOISVERT,
Royal 22e Regiment, RCIC.

Reference your HQC.55-B-3599 (JAG/O) dated 4 Jan 50.

2. May copy of the proceedings in the m/n case be forwarded to this HQ , please.

3. As soon as information required is obtained, same will be forwarded to you immediately.

(G.A.M. NANTEL) Major,
AJAG., Quebec Command.

SE 103199 (Mm R1)

OTTAWA, 7 Jan 50

DIRECTORATE OF ARMY
JAN 12 1950
OTTAWA CANADA

TO: Deputy Minister

Court Martial Proceedings
SE 103199 Pte Etienne BOISVERT
Royal 22e Regiment, RCIC

Herewith proceedings of the Court Martial of SE 103199 Pte Boisvert as requested, your memorandum dated 15 Dec 49 refers.

(W H S Macklin)
Major-General
Adjutant-General

JRC/5896/bg

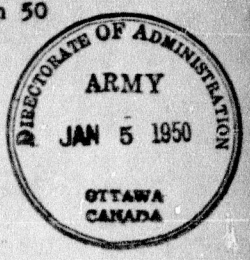
HQC.55-B-3599 (JAG/O)

XXXXX

Office of the Judge Advocate General

4 Jan 50

DIRECTORATE OF ADMINISTRATION
ARMY
JAN 5 1950
OTTAWA
CANADA



Headquarters,
Quebec Command,
3530 Atwater Avenue,
QUEBEC, P.Q.

DISTRICT COURT MARTIAL
SE.103199 Pte Etienne BOISVERT,
Royal 22e Regiment, RCIC.

Receipt of your QC. SE-103199 (J) dated 29 Dec 49, together with proceedings of the marginally-noted District Court Martial, is acknowledged.

2. These proceedings have been noted in the records of this Office under Serial No. 47179.

WMWS

(W.M.W. Shaw) Lt Col,

for Judge Advocate General

Recorded
A.C. 5/50
Adm/B1

NOTED
Emmanuel Capt
for "D" Adm
13/1/50
Local 2891

H.Q.C.55-B-3599
M.D.

MEMORANDUM - DISTRICT COURT-MARTIAL

No. SE.103199 Name BOISVERT, Etienne

Rank Private Unit Royal 22e Regiment

Charge AA 15(1) - ABSENTING HIMSELF WITHOUT LEAVE
(0800 hours 8 July 47 to 1630 hours 1 Nov 49)

AA 24(2) - LOSING BY NEGLECT etc - Value $42.60

Date of Crime 8 July 47

Date of Arrest 1 Nov 49 Charge Signed 16 Nov 49

Orders for D.C.M. 23 Nov 49

Place and Date of Trial 25 Nov 49 - HQ Eastern Quebec Area

Sentence To undergo detention for 150 days

Date of Confirmation 17 Dec 49

Date of Promulgation 17 Dec 49

Entered in Records of J.A.G. as No. 47179

Date 4 Jan 50

MEMO On confirmation, sentence modified to read: To undergo detention for 21 days.

WMWS
(W. M. W. Shaw)
Lt.-Col.
DJAG

JAN -4 1950

for Judge Advocate-General

IN REPLY PLEASE QUOTE No. QC. SE-103199 (J)

CONFIDENTIAL

CANADA

DEPARTMENT OF NATIONAL DEFENCE

ARMY

"REGISTERED"

MONTREAL, Que.,
29 Dec 1949.-

Army Headquarters,
Department of National Defence,
OTTAWA, Ont.

Referred to JAG
DEC 30 1949
File No. CJS-P-2-199
Sent to

District Court-Martial
SE-103199 Pte Etienne BOISVERT,
Royal 22e Regiment, RCIC.

Please find herewith the proceedings of the m/n District Court-Martial, for safe custody.

2. May this HQ be informed of the number of the registration, please.

3. Action has been taken pursuant to CAO 62-3.

for (R.C.G. MONTGOMERY) Major-Gen.,
General Officer Commanding,
Quebec Command.

Enc.

NAT. DEF. B. 440

COUNTER NUMBER 45787

HOUR 12:00

OPERATOR'S INITIALS GP

RELIEVING OPERATOR _____

Affidavit

PROVINCE OF ONTARIO
COUNTY OF CARLETON
TO WIT:

I, C. Patrie of the City of Ottawa, in the County of Carleton, an employee of the Department of National Defence, make oath and say:

1. THAT I am presently employed as a camera operator making microphotographic copies of Departmental documents for the purpose of providing a permanent record of same.

2. THAT on the date indicated therein I did make microphotographic copies of files listed in Appendix "A" hereto and of all documents contained thereon.

3. THAT the said microphotographic copies may be identified from the indexing data and the job and reel numbers contained in Appendix "A".

SWORN before me at the City of Ottawa, in the County of Carleton, this day of A.D. 19

.....
A NOTARY PUBLIC

Appendice "A" to the affidavit

dated .....

March 30 19 51

CAMERA OPERATOR'S REPORT

PRODUCTION DATA	DATE	HOUR
STARTED		
FINISHED		
TOTAL NO. OF HOURS		10 Min.
TOTAL NO. OF IMAGES		523

JOB NO. 44 REEL NO. B-27

BOOK NO. 26

INDEXING DATA 44-B-27A

BEGINS WITH C.55-B-3585

1.

2.

3.

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