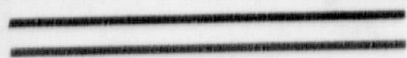
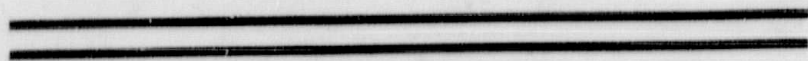
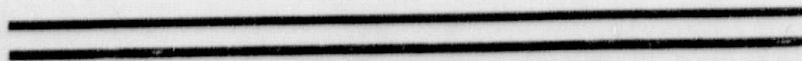
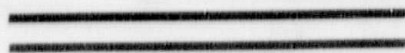


44.19.2

START



FIRST



SIDE

4J 73

PRE EVERETT L.E.

Note compulsory transfer and
loss of trade fair.

COUNTER NUMBER 567746

HOOR 15-125

OPERATOR'S INITIALS CR

RELIEVING OPERATOR JR

CHARGE SHEET


The accused, B54105 Private Leroy Emerson EVERETT, Winnipeg Grenadiers, on the strength of 3 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE WHILE ON ACTIVE SERVICE, Absenting himself without leave,

Section 15 (1)
Army Act

in that he,

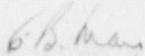
In the Field, absented himself without leave from 0200 hours 1 October 1944 until surrendering himself to the Corps of Military Police in Hull at 1625 hours 23 November 1944, thereby incurring cost of return to his unit in the amount of £2-7-5. Total absence 53 days, 14 hours, 25 minutes.


(J.B. Weir) Colonel
Commander
3 Cdn Inf Trg Regt

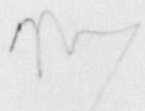
IN THE FIELD
28 November 1944

To be tried by Field General Court Martial

In the Field
3 Dec 44



(C.B. Ware) Colonel
A/Commander
13 Cdn Inf Trg Bde.



FIELD GENERAL COURT-MARTIAL

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

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 61, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appnt, A/R or A/Appmt, if any, see AA 182, 183, fn, RR Can 208, 328, 330.)

ACCUSED.

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

B-54105 Pte Leroy Emerson EVERETT CIC Wpg Gren
3 CTR

CONVENING ORDER.

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

2. And whereas I am of opinion that it is not practicable that such offence should be tried by an ordinary General Court-Martial; (Delete part in brackets when not required for compliance with RP 105(C).)

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

4. I hereby appoint the following as members of the Court-Martial to be held hereunder.

(AA 49, RP 104(B), 107(A). Delete the whole or part, if not applicable.)

5. I hereby appoint the following as the Convening Officer.

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

PRESIDENT.

MAJOR E.M. MILLER, ED H. CRU
(Rank) (Must be named. RP 106.) (Unit)

MEMBERS.

Captain to be detailed by Commanding Officer 4 CTR

Lieutenant to be detailed by Commanding Officer 3 CTR
(Rank) (Named or detailed. RP 106.) (Unit)

WAITING MEMBER.

Captain to be detailed by Commanding Officer 3 CTR
(Rank) (Named or detailed, if any. RP 106.) (Unit)

URGE ADVOCATE.

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

On Active Service in the Fd in England Colonel
(Country) (Signed personally. RP 105 (a) 2.) (Rank)

Date: 3 Dec 44 A/Commander 13 Cdn Inf Tfg Bde.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

M

Medical Officer's Certificate. 40/25
K.R. (Can.), para 557.

I certify that I have this morning examined No. *1084101*.....
... *Pte. Emmett. L.E.* of ... *2 C.I.T.R.*

and in my opinion, he is ... *f.i.* to undergo trial by Court Martial.

Station. *Field*

Date. *6 Dec. 1944* (Sgt.)

J. M. Smarton Capt
(Medical Officer)

M Canadian Reinforcement Units Routine Order No. 3, para 27, (16 Jan 42)

B54105 Pte Everett L. E.

I was acting O/C 63 Coy, 13 Bn C.B.R. G. during June & July. 44
Pte Everett was on strength as a fitter 4th U. Class A.

On two different occasions Pte Everett L. E. harassed to me
asking if he could drop his trades pay and proceed on
draft as a driver med or a driver or General Duties.
as he wanted to go on draft and there was no
demand for fitters.

On both occasions I informed the above mentioned that
the only way he could do this was to be re-trade tested
and fail. As I knew of no other way that a
tradesman could forfeit trades pay.

Dated 6 Dec 44.

R. H. Turnbull Capt.
1. C.A.S.C. Offt Unit
Cdn Army

Mj

Plea by B54105 Pte Everett, L.E.
For Mitigation of Sentence.

In peace time I worked in a B.A. garage in Canada as an apprentices mechanic for 16 mo. and was ready to take my mechanic papers just before I enlisted in the R.C.A.F. on 30 Sep 41. I am very interested in mechanics and my old job is waiting for me when the war is over. I intend to return to my old job and take out my civilian mechanic papers.

I came overseas on 7 Oct 42 with the 4th Armist Bde Coy R.C.A.F. as a Dir Mech, since there was not a vacancy for a M. Mech. Sp 6 which was my trade.

On Nov 43 I left 4th Armist Bde and went to 1 CASCO, since my trade qualification as a M. Mech was Cdn. While there I asked for a fitter course. My request was granted and in May 44 I got my course and studied and worked hard on it. I passed immediately to Fitter Sp 4 and was given 75% trades pay. I was then sent to 20 B.R.P. at Croham in the middle of Jan 44.

I waited in 20 B.R.P. over a month, but there were too many tradesmen and I didn't get to France. I persuaded to Capt R.H. Turnbull who was C.O. my Coy to try to drop my trade and get on draft as a dir or sub mech. He said it was impossible to drop my trade as there was a shortage of tradesmen.

I was then sent back to 1 CASCO in the middle of Aug 44. During my wait this draft of dir was being sent out and I tried to get one as a dir, but the end of Aug 44 I was ^{consequently} transferred to the C.D.C. and sent to 15 Cdn Inf Bde. My trades pay of 75% was then stopped. At 15 Cdn Inf Bde my Pl. Comd and C.O. Little tried to get my trades pay back, but were unable to do so.

At this time fitters were still being trained at 1 P.C.A.F. Rd. These trades were new from Canada and I felt they shouldn't have taken my trades pay away and then train a new man.

I got fed up and burned off and finally left and worked as a shell mechanic at 24 hrs in a garage in Beverby, Yorks. They try get I was on leave, since I had spent three or four leaves there before and had worked to improve my financial condition, work at my trade and learn about English vehicles while on those leaves. I used to see my girl friend in the evening.

Page 2.

B54105 to Everett, R.E.

My conscience bothered me and I heard that some of my chums had been wounded and that made me surrender, in order to do my bit.

I still want to get overseas as a mechanical tradesman, but realize there is very little chance of that, so, drill in future serve as a good soldier in the infantry. I still want to get overseas, regardless of the arm of service I'm in.

Dated 6 Dec 44

Signed: B. 54105 to Everett R.E.

My

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B54105 Private Leroy Emerson EVERETT, Winnipeg Grenadiers, on the strength of 3 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

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

FIRST WITNESS Capt E.T. Stewart, General List, on the strength of 3 Canadian Infantry Training Regiment, an officer of the Canadian Army Overseas, having been duly sworn, states:

I am Capt E.T. Stewart, and am Adjutant of 3 Cdn Inf Depot Bn. I hereby present marked Exhibit "A" certified true copy of the Declaration of a Court of Inquiry held on 29 October 44 which shows that the accused, B54105 Pte Everett L.E., whom I now recognize, absented himself without leave from 0200 hours 1 Oct 44. I present, marked Exhibit "B" Certified true extract from 3 C.I.T.R. Part II Orders No 23 dated 28 Nov 44 which shows that the accused surrendered himself to C.M.F. in Hull at 1625 hrs 23 Nov 44. I present, marked Exhibit "C" Expense Voucher dated 25 Nov 44 which shows that the cost of returning the accused to his unit was in the amount of £2-7-5

E.T. Stewart
(E.T. Stewart) Capt.

The accused declines to cross-examine this witness.

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

The accused declines to make a statement or to give evidence on oath.

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

IN THE FIELD
30 November 1944

A.E. Withers
Officer charged to take Summary

E.A.
J.H.

344
A

RECORD of the Declaration of a Court of Inquiry assembled at Duncombe Pk Eng
on the 29th day of October 19 44 for the purpose of investigating
and recording the absence, without leave, from his duty, and deficiency, if any, in
the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing
of No. B54105 Pte Everett L.E.

DECLARATION

The Court declare that No. B54105 Pte Everett, L.E.,
1 Bn Winnipeg Grenadiers, C.A.

illegally absented himself without leave from Duncombe Park Eng.

at 0200 hrs on the 1st day of October 44

that he is still so absent, and that on the 2 Oct 44 he was deficient, and

that he is still deficient of the following articles :--

ARTICLES	VALUE	ARTICLES	VALUE
Bloous battledress	1 1- 3- 6		
Trousers battledress	1 1- 4- 12		
Boots ankle w/laces prs	1 1- 4- 5		
Brushes shaving	1 1- 8		
Brushes Tooth	1 6		
Combs hair	1 2		
Brasses button	1 2		
Drawers cotton short pr	1 1-11		
Holdall	1 10		
Jerseys pullover	1 8- 0		
Razors safety w/blades	1 8		
Shirts flannel khaki	1 9- 1		
Shirts unercotton	1 1-11		
Shirts woollen	2 10- 9		
Socks woollen prs	2 2- 4		
	5-10- 72		

Capt J.D. Main President
1 Bn Wpg Grens C.A.

Lieut R.D. Myers Member
1 Bn Wpg Grens C.A.

Lieut D.R. A. Butchart Member
1 Bn Wpg Grens C.A.

Signed at Duncombe Pk Eng.

this 30th day of Oct 19 44

Signature of Commanding Officer "W.D. Graham" Major.

Certified true copy

[Signature]
Signature of Officer having custody of original record

[Handwritten mark]

413

NO 3 CANADIAN INFANTRY TRAINING REGIMENT C A (E)
PART II DAILY ORDERS

THIS ORDER
NO 23
28 Nov 44

LAST ORDER
NO 22
27 Nov 44

Issued by

A/COL J B WEIR, OBE, ED, Commander

6. STRENGTH INCREASE

- (a) T O S from desertion on surrendering to C.M.P. in Hull at
1625 hrs 23 Nov 44
B 54105 PTE EVERETT L.E. "CIC"

"A.J. Geisler" Lieut
for (J.B. Weir) A/Col
Commander
No 3 Cdn Inf Trg Regt CA(E)

Certified True Extract

[Signature]

Officer Having custody of Regt'l Books.

[Handwritten mark]

Expense Voucher Re-

Ref: KR & O (Can) 539

54106
 Reg No. ~~42~~ Rank Pte. Name EVERETT, H. E. Unit 3. C. I. T. B. T. M.

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

Date	Particulars	Amount		
25 Nov 44	Escorts return fare from LONDON To Hull	1	6	11
	Prisoners single fare to LONDON From			
25 Nov 44	Prisoners fare from Hull to LONDON	13	6	
26 Nov 44	Escorts & Prisoners expenses for Bed, Meals, Bus fares		7	
5/24	Total \$	2	7	5

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

J. A. Thomson
 J. A. THOMSON,
 ADMN. OFFICER - D.P.M. Cont.

[Signature]

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

Statement as to Character and Particulars of Service of Accused.

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

Number. Rank. Name. Regiment (or as the case may be).

B54105 Pte EVERETT L.E. Winnipeg Grenadiers
3 C.I.T.R.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence are to be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be stated here.

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

For A.A. 15 (1) 4 times.
For A.A. 40 1 time.
For ~~1~~ times.
For ~~1~~ times.

Date of first entry in Field Conduct Sheet 2-7-42

Date of last entry in Field Conduct Sheet 9-8-44

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

3. The accused at the present time is under sentence for—

beginning on the 1st day of 1944

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 13 days in military custody, i.e., Nil days in open arrest, 13 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 21 yrs

6. The date of his attestation is 30-9-41

7. The service which the accused is allowed to reckon is 3 yrs 2 mos.

8. The accused is in possession of: C.V.S.M. & Clasp

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

Date of Promotion.

In the substantive rank of 1

In the war substantive rank of

In the acting rank of

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

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

Description of Court by which tried	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
<div style="font-size: 2em; opacity: 0.5;">X</div>				

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

Signed this 6 day of Dec. 49

A. S. Wilby
1st Lt. 20th Reg. Inf.

No 854105

Name *A. W. R. T. H. H.*

Sqn, Battery, or Company

Corps *R.C.A.S.C.*

Date of enlistment *30-9-41*

GC Badges

Service or Proficiency Pay

3/17 MFM 6
(AFN 122)
40/P&O/100(5419)

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No

Signature OC Company, etc

Character

Place	Date of offence	Rank	Case of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order discharging with trial	By whom awarded	Remarks
				<i>Sheet destroyed 30-3-42. No entries no cases of drunkenness.</i>					
<i>Hamilton</i>	<i>2-2-42</i>	<i>P/S</i>		<i>Off. L from 8.30 hrs 2.7.42 to 6.00 hrs 6.7.42</i>	<i>PL. LAMONTAGNE D.C.</i>	<i>4 days C.B.</i>	<i>6-7-42</i>		<i>4 days P/S</i>
<i>FIELD</i>	<i>9-1-43</i>	<i>P/S</i>		<i>Off. L from 2.30 hrs 9-1-43 to 2.30 hrs 9-JAN-43 AMIS (1)</i>	<i>L. H. S. WINS D.C.</i>	<i>14 days C.B.</i>	<i>11-1-43</i>		
<i>FIELD</i>	<i>8-July 43</i>	<i>P/S</i>		<i>night to the prof. M.A. 40</i>	<i>CPL. F. W. LLOYD</i>	<i>admonished</i>	<i>9-July-43</i>		<i>cases & draw P/S. M. W. T. P. P. L. M.V.</i>
<i>Awarded Canadian Voluntary Service medal 4 clasps R.C.A.S.C. 00.13 9/17-1-43 (170)</i>									

Place	Date of offense	Rank	Case of drunkenness	OFFENSE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	12-1-44	Pfc		931 L from 2230 hrs. 12-5-44 to 0715 hrs 14 JUNE 44. AM 15-01	Pk. COVINGTON & S. H.	5 days pay	15-5-44		Inf. 2 days pay 1490 Inf. 5 days pay 1492
FIELD	9. Nov 44	Pfc		931 L from 2230 hrs 9 Aug 44 to 1800 hrs 10 Aug 44. AM 15-01	Pk. MILLER, G. W.	5 days pay	14 Aug 44		Total inf of 10 days pay.

Certified True Copy
 J. S. Widley
 Sgt. 11c Regt. Cavalry 2d Div 35th AFV
 6 Dec 44

28 November 1944

This is to acknowledge that I have received free of charge,
the following papers in connection with my forthcoming trial
by FGCM.

- 1 Copy of Charge Sheet
- 1 Copy of Summary of Evidence
- 1 List of Witnesses
- 1 List of Exhibits.

M

2-44105 Pte Leroy Emerson Everett
.....
BS4105 Pte Leroy Emerson EVERETT.

3 CANADIAN INFANTRY TRAINING REGIMENT (C.A.O.)
I, No. 84108, Pte. Robert [Name] (Rank),
an officer defend me at my forthcoming trial by Court Martial.
I, [Name] [Rank], also wish to have
[Name] [Rank] defend me at my forthcoming trial by Court Martial.
[Name] [Rank] [Address]

W

[Signature]
[Name] [Rank] [Address]

3 CANADIAN INFANTRY TRAINING REGIMENT (C.A.O.) 3D/11

I, No. B54105 Pte. Everett J.E. ... 28 November 1944 ... 1944.
(Rank) (Name) ... is to have
an Officer defend me at my forthcoming trial by Court Martial.

I desire the services of Sgt. C.M. Dally or any other soldier in the Co
if he is available.

(Sgd.) Pte. John Everett

ME

LIST OF WITNESSES

In the case of B54105 Pte Everett L.E., Wpg Grens, 3 C.I.T.R.

FOR THE PROSECUTION

Capt E.T. Stewart

3 Cdn Inf Trg Regt.

FOR THE DEFENCE

N I L

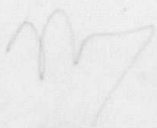
List of Exhibits

In the case of B54105 Pte Everett L.E., Wpg Grens, 3 C.I.T.R.

EXHIBIT "A" - Certified true copy of Declaration of a Court of Inquiry held 29 Oct 44

EXHIBIT "B" - Certified true extract from 3 C.I.T.R. Part II Order No 23 dated 28 Nov 44.

EXHIBIT "C" - Expense Voucher dated 25 Nov 44.



CCC-93

PTE EVERETT W.G.

CCC-93

FIELD GENERAL COURT-MARTIAL

CPAR 6 (In lieu of AFM) 43-P-2-R/1808 (2044)

Convened by Order of Brigadier G. Francoeur Comd "D" Group CRU dated 4 FEB 44.

SCHEDULE.

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

Accused: A-37366 Pte Everett, William Geoffery - HLI of C - 3 CIRU

Table with columns: Charge, Plea, Finding, and a space for further charges. Row 1: Charge 1st AA Sec 15, Plea Guilty, Finding Guilty.

Notes: As to findings for lesser offences see AA 56, RP 44. Findings on alternative charges see MAM p 482 for 4 para 2, RP 44. At present under sentence for 14 days C 16 beginning on 21 Dec 44. Time in confinement awaiting present trial - a total of 12 days, of which Nil days were spent in hospital. Sentence Awarded by the Court: 70 days C 16 for a period of security force (75) days.

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

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE. (For details and powers see AA 54, 57, RP 27(D) in 4, MAM p 51-56, 120, MAM pp 759-761, KR Can 547-557.)

My decision on the finding(s) and sentence set forth in Part I is: Finding and sentence confirmed. I declare that the accused be not permitted to return or detention barracks until further orders.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 51, KR Can 376, 577.) Accused: A-37366 Pte Everett William Geoffery. Date: 11 Feb 44. Signature of Offr: Charles Hadley.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALED.

ACCUSED.

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

Number: A-37366 Pte. Full Christian Names: William Geoffery. Surname: EVERETT. Unit: 3 CIRU HLI of C. PROCEEDINGS REVIEWED: Stefaussan. REVIEWING OFFICER, JAG BRANCH: Held in the Pd in (country): England. on (date): 3 Feb 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

21. The President, Members, ~~writing Member, JA, if any,~~ and Offrs under instr, if any, assemble, and the Court is closed. 22. The President initials and lays before the Court the Convening Order and Charge Sheet attached thereto. 23. The Court is opened. The accused is ~~then~~ brought before the Court. At 190 hours trial commences. 24. The Prosecutor produces a Medical Certificate that accused is ~~then~~ fit to undergo trial by court-martial. 25. The Convening Order and names of the President and Members of the Court are read to the accused. 26. The accused is arraigned on all charges in the charge sheet. 27. The President, Members, ~~JA, if any,~~ and Offrs under instr, if any, are sworn. 28. The accused is made for separate trial or as to more charges. 29. The accused is arraigned on all charges in the charge sheet. 30. The Court is closed and the Offrs under instr, if any, are sworn.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

- I. If pleas to all charges are GUILTY, use Record Form B below.
II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.
III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,
(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A)).
(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37(A) and fn 2 as to discretion of Court.
3. As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A)(B); duty and privileges of accused and Defending Officer see RP 60(C); 87(C); 91, 92; answering and withdrawal of witness from Consent see RP 81, 82; questioning of accused see RP 80, 87(C); 92(D); and of witnesses see RP 83-85; calling or re-calling of witnesses by Court see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.

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

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

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

President to accused: Do you wish to make a statement? Ans. NO - 514
(1. RP 37(B); 2. RP 37(C) fn 6; 3. RP 38(B) fn 5 para 2, MML p 54 para 47; 4. See para E1 of Record Form E. 5. Statement, if any, recorded per Notes.)

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

B4. On the charge(s) to which the plea of guilty is (are) not changed the President records finding(s) of guilty in Part I of the Schedule.(2) (1. RP 38(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(2) (1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of para D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6. NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

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

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

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

Ans. Are they witnesses as to character only? Ans. (1. RP 40; 2. RP 40(A), see 80(D); 3. RP 40 fn 10; 4. RP 40 fn 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(2) (1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(n).)

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later. Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed. (1. AA 54(2) (b), RP 45, 200(A), 2. AA 54(2), RP 45, 117. The alternative announcement is not applicable when there are pleas of guilty outstanding and dealt with under Record Form E or C.)

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

RECORD FORM E--PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

Ans. NO 314 (1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service, and certified true copy of Conduct Sheet(s), purporting to refer to the accused, which he submits to the Defending Officer for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (a) they purport to be signed in the manner required by AA 36(3) (a) (b), and (b) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively. (1. MFB 253 or MFB 294. 2. MFM s. 2. RP 46, KR Can 538. If above documents not produced, see RP 46 fn 1 para 1.)

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

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(2) (1. AA 54(6), RP 200(A).)

E5. The Court considers the sentence. The President records the sentence in Part I of the Schedule, which is dated and signed by him. (1. When several accused tried separately see RP 60(B). One sentence only, comprised of the punishment or punishments set down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 45. As to sentences see AA 44, 136, 182, RP 46-55, 69, 118, 119(A), KR Can 308, 320, 343-346, Chertsov AC 229, 232, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), 68(1), KR Can 344. 2. RP 32. As to release from arrest by order of the Court see AA 44(1), 68(1), KR Can 344. 3. RP 32. As to assembly and disposal of record after trial see notes on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused regt. Number A.37366, Pte. William Geoffery EVERETT, Highland Light Infantry of Canada, a Reinforcement on the strength of 3 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

WHEN ON ACTIVE SERVICE, ABSENTING
HIMSELF WITHOUT LEAVE

in that he

1ST CHARGE
RA 22012

in the Field absented himself without leave from 2145 hrs. 21 Dec 43 until being apprehended at Victoria Station, London at about 2330 hrs. 24 Jan 44. by the Cdn. Provost Corps.
(Total time absent 34 days 1 hour 45 mins.)

J.A. McIntosh

(J.A. McIntosh) Colonel
Commanding Officer
3 Cdn. Inf. Reinf. Unit.

Dated in the Field.
27 Jan 44.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

IN THE FIELD
4 FEB 1944.

G. Francoeur

(G. Francoeur) Brigadier.
Commander,
"D" Group, Cdn Rft Units.

MM

FIELD GENERAL COURT-MARTIAL

CFA 66 (In lieu of AFAB)
40/P&N/1097 (2048)

(Whether the accused to be tried is under his command or not, a FGCM may an application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate command of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MM1 Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, Int, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-37366	Pte		William Geoffery	EVERETT	3 CIRU HLI of C.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 4 FEB 44, endorsed by me, ~~(as by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

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

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

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd OE as President, for the reasons I have~~ *(Delete part in brackets when not required for compliance with RP 105(C).)*

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

5. ~~I also appoint as Judge-Advocate the offr mentioned hereunder.~~ *(Delete part in brackets when not required for compliance with RP 106(E).)*

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

PRESIDENT.

<u>Lt-col.</u> <small>(Rank)</small>	<u>D. L. Redman</u> <small>(Must be named. RP 106.)</small>	<u>Hq CRU</u> <small>(Unit)</small>
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MEMBERS.

<u>A Captain</u> <small>(Rank)</small>	<u>to be detailed by CO</u> <small>(Named or detailed. RP 106.)</small>	<u>4 CIRU</u> <small>(Unit)</small>
<u>A Lieutenant</u> <small>(Rank)</small>	<u>to be detailed by CO</u> <small>(Named or detailed. RP 106.)</small>	<u>3 CIRU</u> <small>(Unit)</small>

WAITING MEMBER.

<u> </u> <small>(Rank)</small>	<u> </u> <small>(Named or detailed, if any. RP 106.)</small>	<u> </u> <small>(Unit)</small>
--	--	--

JUDGE-ADVOCATE.

<u> </u> <small>(Rank)</small>	<u> </u> <small>(Must be named, if any. RP 106.)</small>	<u> </u> <small>(Unit)</small>
--	--	--

On Active Service in the Fd

<u>in England</u> <small>(Country)</small>	<u><i>D. J. Francom</i></u> <small>(Signed personally. RP 105 (s 2))</small>	<u>Brigadier.</u> <small>(Rank)</small>
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Date: <u>4 FEB 44</u>	Commanding "D" Group, Cdn Rft Units. Convening Offr.	
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CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

IM

3 CANADIAN INFANTRY REINFORCEMENT UNIT

Medical Officers Certificate

K.M. (Gen) Para 507.

I certify that I have this morning examined No. A 27 366 Pk Everett, W 4.
Name & Rank
of F 3 C. I. R. U. and in my opinion he is fit to undergo trial
~~unfit~~
by Court Martial.

Station Aldershot
Date 5 Feb 44

174

M. J. Woodham Capt.
Medical Officer
3 Cdn. Inf. Reinf. Unit.

59644

Plea of Mitigation for: A37386 Pte. Everett W.G.

Pte. Everett enlisted on 13th of June 1940. He came overseas with his unit in July 1941. Pte. Everett has been with his unit in the field until October 1943, where he has been the Regimental Tailor. He was returned to #3 C.I.R.U. after all this time with his Unit in the field.

When he was awarded 14 days C.E. for a minor AWL charge he asked Col. Fletcher if he could be put on an overseas draft. Pte. Everett was told that he could not go out on draft as he was a specialist, a trade job at which he had not been allowed to work at.

Along with this bad news, he had the vision of being C.E. over Christmas, his last Christmas having been spent in a dingy Nissen hut, suffering from a shrapnel wound in the foot, in Scotland where his Unit was training.

May I ask the Court to consider the fact that Pte. Everett is twenty-three years of age and too active to be content with a monotonous existence. Had he been allowed even hopes of an overseas draft, we may be assured that he would have found something to look forward to -- to doing his job in getting this war over with.

J.D. Patterson
(J.D. Patterson) Lieut.
Defending Officer.

NOTE E-3
MB

CHARGE

Army Form B 252

(See King's Regulations)

3. C.I.R.U.

D OUY.

Regiment

Battery
Squadron
Troop or
Company

CHARGE against No. 37366

Rank PTE.

Name EVERETT W.G.

Place LONDON

Date of Offence ?....

OFFENCE WAS was absent without leave from ?...

until apprehended by the Canadian Provost Corps at

Victoria Station LONDON at about 2330 hrs., 24. JAN. 44.

L. S. Grayson

CAPT.

L. S. GRAYSON - C.A.P.M.

LONDON AREA.

Names of Witnesses:—

L/C. HIGGINSBOTTOM E.P. Canadian Provost Corps 6 Coy

L/C. WATSON W.F. Canadian Provost Corps 6 Coy

Signature of O.C. Battery,

Squadron, Troop or Company

Punishment

Awarded

By whom

Awarded

Referred to Co. 26 and kept for 26 Jan 44

26 Jan 44

Returned under cover of letter of 26 Jan 44 to S.C.M.

Charles S. Hadley et al.

Adjutant.

W.F.T.O.

Statement of EVIDENCE in the case of:
A.37366 PTE. EVERETT W.G.
3 C.I.R.U. "D" COMPANY.

Sir,

At LONDON on the 24 JAN.44 at about 2330 hrs., I was on duty at VICTORIA STATION in company with L/C. WATSON where I saw the a/m soldier.

I approached him and asked him for his pass. He couldnot produce one. He was A.W.L.

I placed him under arrest and he was escorted to Canadian Provost Corps H/qtra detention office where he was handed over to the N.C.C. i/c of the cells to be detained.

LONDON

25 JAN.44.

E.P. Hogg
A. 53045 HEDDERSTON E.P.L/C.
6(Area) Provost Company.

Sir,

I have read over the above statement and corroborate same.

LONDON

25 JAN.44.

Watson
A.10080 WATSON W.F. L/C.
6(Area) Provost Company.

REMARKS

Certified True Copy of the Part II Order Stencil in my possession bearing the number 277 d/24 Dec 43.

W.E. Thorne
(W.E. Thorne) Captain,
Records Officer, 3 Cdn Inf Reinf Unit.

3 CDN INF REINFORCEMENT UNIT DAILY ORDERS PART II NO 277 d/24 Dec 43
Sheet 3

13. LEAVE OF ABSENCE

- (a) O 3001 A/CPL COUBROUGH
RCR H M Granted 14 days P/L plus 48 hrs pass
(Total - 16 days) with money allowance
in lieu of rations under FR&I(O) 789
(3) & (4) from 23 Dec 43 to 7 Jan 44
- (b) A 50777 PTE SQUIRE
ESSEX SCOTTISH R H G Granted 7 days P/L plus 48 hrs pass
(Total - 9 days) with money allowance
in lieu of rations under FR&I(O) 789
(3) & (4) from 23 Dec 43 to 31 Dec 43

14. ABSENCE WITHOUT LEAVE

(a) The w/m are AWL from times shown:

A 27366 PTE EVERETT W G 2145 hrs 21 Dec 43
PERTH C
A 60339 PTE HAYES D 2359 hrs 22 Dec 43
RCR
A 60706 PTE NEESO A J 2359 hrs 22 Dec 43
A 50774 PTE WADJIWAN C F 2359 hrs 22 Dec 43
RCR

- (b) A 50772 PTE EDWARDS W D AWL from 2200 hrs 2 Dec 43 1st day
Absence 2200 hrs 23 Dec 43
A 10886 PTE HASTINGS A AWL from 2200 hrs 2 Dec 43 1st day
Absence 2200 hrs 23 Dec 43
RCR

15. REMISSION

The w/m are released from Headley Downs Detns Bks wef 23 Dec 43:

A103186 PTE BERGMAN C A HLI of C
C 5052 PTE CHOUINARD R PERTH R
A 50272 PTE POWELL M ESSEX SCOTTISH R

16. CIVIL IMPRISONMENT

A 68232 PTE KOOPS F W Released from HM PRISON WORSWOOD SCOTLAND
PERTH R wef 22 Dec 43

17. REMISSION OF SENTENCE

- (a) A103188 PTE BERGMAN C A Granted 89 days Remission of Sentence
HLI of C 9 months Detention awarded on 25 Jun 43
(Auth: Rules for DB & MP Nos 126 & 127)
- (b) C 5052 PTE CHOUINARD R Granted 70 days Remission of Sentence
PERTH R 7 months Detention awarded on 5 Aug 43
(Auth: Rules for DB & MP Nos 126 & 127)

18. POSTINGS

- (a) B131144 PTE LAUGHLIN J P Ceases to be posted Surplus to W.E.
RCR SURPLUS TO WE ("A" Wing) and is posted as reinforcement
to "R" WING wef 23 Dec 43
- (b) B 74737 PTE NIXON W Posted SURPLUS TO W.E. ("A" Wing) wef
HLI of C (Overage) 22 Dec 43

19. QUALIFICATIONS--ADDENDUM

Ref Pt II O 276 d/23 Dec 43 para 20(b) insofar as it concerns A105466
PTE WELCH A E (GEN LIST), add "AV"

20. STRENGTH DECREASE

A 3710 PTE PIPE R J SOS to 1 NETD on discharge from 10 Gen
RCR Hosp wef 20 Dec 43 (Auth: ORG 4103)

NFM

W.E. Thorne
(W.E. THORNE) CAPT.,
RECORDS OFFICER,
3 CDN INF REINFORCEMENT UNIT -
CDN ARMY OVERSEAS

EXHIBIT A

LIST OF WITNESSES

Prosecution: Capt. W.S. Thorne, C.M.S.C., Records Officer, 3 CIRU.
K.53045, L/Cpl. Higginbottom, R.P. Gdn. Provost Corps,
London Area.

Defence: NIL.

LIST OF EXHIBITS

Exhibit "A" Certified true extract of original 3 CIRU, D.O. Part II
Order No. 277 d/24 Dec 43.

Exhibit "B" Documentary evidence of L/Cpl. Higginbottom, R.P.
Gdn. Provost Corps.

STATEMENT OF ACCUSED

I certify having received free of charge a copy
of the Charge Sheet, Summary of Evidence, List of
Witnesses, and a List of Exhibits.

I do ~~not~~ desire the services of an officer to
represent me at my trial.

A-37346 *W.H. Court*
A-37366 Pte. EVERETT, W.S.

In the Field
27 Jan 44.

SUMMARY OF EVIDENCE

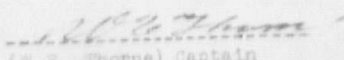
In the case of Regt. Number A.37366, Private William Geoffery EVERETT, Highland Light Infantry of Canada, on strength of 3 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

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

FIRST WITNESS
Prosecution

Capt. W.E. Thorne, C.M.S.C., Records Officer, 3 CIRU, having been duly sworn states.

I am Capt. W.E. Thorne, Records Officer, 3 CIRU, and as such have custody of the regimental documents of that Unit. I hereby produce a certified true extract of the original 3 CIRU, D.O. Part II No. 277 d/24 Dec 43 Para. 14(a) (hereto attached and marked as exhibit "A" to this Summary), showing A.37366 Pte. Everett, W.G. to be absent from his quarters from 2145 hrs. 31 Dec 43.


(W.E. Thorne) Captain
Records Officer, 3 CIRU

The evidence is read back to the accused.

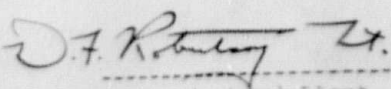
The accused declines to cross-examine the witness.

SECOND WITNESS
Prosecution

R-53046, L/Cpl. Higginbottom, E.P. 6 Coy., Cdn. Prowest Corps, London Area.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence and marked Exhibit "B".

Having regard to the exigencies of the service, attendance of this witness cannot, in my opinion, be readily procured.


(D.F. Robertson) Lieut.
Officer detailed to take the
Summary of Evidence

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

The accused was cautioned as follows:

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

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

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

D.F. Robertson

(D.F. Robertson) Lieut.
Officer detailed to take the
Summary of Evidence

Glenn A

M

In the Field
27 Jan 44.

Old sheet destroyed 13-12-40

No A-37366 Name EVERETT

Company Conduct Wm. G. No and date of last entry in 8-12-40 of last drunk

Sheet renewed wef 31 Dec 43

Sqn. Battery or Company Corps C.I.C.

Period not reckoning towards freedom from extra fine

Certified correct

Date of enlistment 13Jun40 OC Badges

Sheet No 1

M.J. Heffernan Capt.

Signature OC Company, etc

Service or Proficiency Pay

Character Capt

MFM 6 (AFH 122) 40/PAS/136 (3438)

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
Debert	10Jul 41	Pte.		AWL from 2359 hrs 10Jul41 to 2300 hrs 11Jul41 (18hrs lmin) AA Sec 15(1)	Sgt. Elding	3 Days C.B.	12 Jul41	Maj. Erickner	Forf 1 days PRI 149(1)(a)
					Cpl. Adams			Lt Col.	Forf 1 days p
Field	8Jan42	Pte.		AWL from 2200 hrs 8Jan42 to 1530 19Jan42 (17½ hrs) A.A. Sec 15(1)	Cpl. Shultz	8 days C.B.	10Jan 42	McPherson	PRI 149(1)(a)
					Cpl. Canning	4 Days P.P.	25Mar42	Lt Col. McPherson	Forf 4 days PRI 149(2)
Field	24Mar 42	Pte.		AWL from 1330 hrs 24Mar42 to 1630 hrs 24Mar42 (3hrs) A.A. Sec 15(1)	Cpl. Edminston	5 days P.P.	30Apr42	Maj. F.M. Hearn	Forf 1 days PRI 149(2)
					Cpl. HOLLAND	14 days C.B.	17Jun42	Maj. F.M. Hearn	Forf 15 days PRI 149(2)
Field	28Apr 42	Pte.		AWL from 0600 hrs 28Apr42 to 1530 hrs 28Apr42 (9hrs 30mins) A.A. 15(1)	Cpl. Edminston	15 days pay			
					Cpl. HOLLAND				
Field	11Jun 42	Pte.		AWL from 2215 hrs 11Jun42 to 2130 hrs 17Jun42 (5days 23hrs 15mins) A.A. SEC 15(1)	Cpl. HOLLAND	5 days C.B.	6Aug42	Capt. C.D. Sim	
Haig Hutments	29Jul 42	Pte.		A.A. 24(2) Neglect-losing Respirator	Documentary	5 days C.B.	6Aug42	Capt. C.D. Sim	

Place	Date of offence	Rank	Case of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	9Oct 42	Pte.		AWL from 2300 hrs 9Oct42 to 1530 hrs 17Oct42(7days 16hrs 30mins)	Sgt. Swan Documentary	21 Days F.P.	20Oct42	Lt. Col. McPherson	Forf 8days FRI 149(1)(a) and 21 FRI 149(1)(b)
Field	20Jun 43.	Pte.		A.A. SEC 15(1) AA 40 Conduct to the prejudice failed to produce MBM 1 when ordered to do so by Provost.	Pte. Rivers	4 Days C.B.	21Jun43	Mej. GAM Edwards	Forf FRI
Field	29Aug 43	Pte.		AA15(1) AWL from 2359 hrs 29Aug43 til 1530hrw38sep43(4days 15hrs 31 mins.)	Sgt. Coburn Documentary	7 days C.B. 20 Days pay	6Sep43	Capt. A. Stewart	149(1)(a) 5 days 149(2) 20 days Cost of App. 20-9-3 172(8)
Field	30Oct 43	Pte.		AA Sec 15(1)AWL from 2359 hrs 3 Oct43 til 1425 hrs 4Oct43(14Hrs 26Mins)	Sgt. Coburn Documentary	28 Days Detn Forf 28 Days Pay	4Oct43.	Lt. Col. PF Shantz	Forf 1 day 149(1) 28 days 149(1)(b) Total 29 days
Field	14Nov	Pte.		AA Sec15(1) AWL 1 day 22 hrs 16 min)App. by CPCE	Cpl. Conrod Documentary	21 days F.P.	16Nov43	Lt. Col. Fletcher	Forf 2 days FRI 149(1)(a) Total Forf 23 Days

NoA-37366 Name **EVERETT**

Company Conduct Sheet
Date of last entry in

Wm. G.
14 Nov 43 No and date last drunk

Sqn. Battery
or Company

Corps **C.I.C.**

Period not reckoning towards
freedom from extra fine

Sheet renewed wef **31 Dec 43** Certified correct **M.J. Heffernan Capt.**

Date of enlistment **13 Jun 40**

OC
Badges

Service or
Proficiency Pay

MPM 6
(AFB 122)
40/PAS/138 (2438)

Sheet No **2**

Signature OC
Company, etc

Character

Place	Draft of offence	Rank	Class of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order suspending with trial	By whom awarded	Remarks
Field	18 Dec 43	Pte.		AA Sec 15(1) AWL from 0900 hrs 18 Dec 43 til 1640 hrs 19 Dec 43 (1 day 17 hrs 40 mins)	Cpl. Mahoney Documentary	14 Days C.B.	21 Dec 43	Lt. Col. Fletcher	Forf. 2 days PRI 149(1)(a) 14 Days PRI 149(1)(b)

This is a certified true copy of Original in my possession

M. J. Heffernan Capt.
(ROY W. BLOND) Major,
O.C. "A" COY 3 C.I.R.U.

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number A.37366 Rank Private Name EVERETT, William Geoffrey., H.I.L. of C. Regiment (or unit) 3 CIRB

1. The following is a fair and true summary of the entries in the 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 Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment	Times
For A.A. 40.	One	One	times
For A.A. 15 (1) Four	times	Ten	times
For A.A. 24 (2)	times	One	times

2. The accused has not been previously convicted.

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

4. The accused has been in confinement awaiting trial on the present charge, for NIL days in civil custody, and 17 days in military custody, making a total of 17 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his attestation paper is 28 years 3 mos

6. The date of his attestation specified in his attestation paper 13 June 1940

7. The accused is in possession of or entitled to no decoration, of any kind, military or otherwise.

8. The accused is in possession of or entitled to no award, of any kind, military or otherwise.

Exhibit B my

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 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 trial	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Enactment Required
(A large diagonal line is drawn across the table, with a circled 'X' in the center.)				

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

Signed this 23 578 day of January, 1944 FEBRUARY 1944

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.

Chubb FB

(W.E. Thorne) Captain
Records Officer, 3 CIRS.

9.0.

O. H. M. S.

Cpl. EVERINGHAM L.C.

Correspondence to be printed here.

90

Army Form A.3
Form for Assembly and Proceedings of Field
General Court Martial on Active Service.

PROCEEDINGS.

On Active Service, this
of 11th day of September, 1942.
Whereas it appears to me, the undersigned, an officer in
Command of R.C.A.F.C., 1 Canadian Corps

A.
Order Com-
manding the
Court



persons named in the annexed Schedule, being subject to Military
Law, have committed the offences in the said Schedule mentioned
And whereas I am of opinion that it is not practicable that
such offences should be tried by an ordinary General Court
Martial; ~~and whereas it is not practicable to convene a Field
General Court Martial to try the said persons, and to consist of the Officers hereunder named.~~

* One of whom
is a Commissioned
Officer or is of
Field Rank

* One if not
applicable

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

- *1. ~~Three Officers to form the Court.~~
- *2. A Field Officer as President.
- *3. Three Officers having more than one year's
service.)

for the following reasons, namely:—

Rank	President	Regiment
Major	H. G. Shepard	63 Cdn. Gen. Inf. Coy
Rank	Members	
Captain	H. C. Jockel	9 Cdn. Non Div. Ord
Lieutenant	J. H. Bush	S/S, R.C.A.F.C.
		2 Cdn. Lt. A.A. Regt

*Signed (F. B. Shields), Col.
Commanding R.C.A.F.C., 1 Cdn. Corps
Consenting Officer.

Handwritten notes at the bottom of the page.

SCHEDULE.

Rank (a), and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B. 94688 Corporal Everingham, L.C. No. 6 L.A.D. att'd RMR (MG)	<u>1st Charge</u> Sec. 11 A.A.	Guilty	Guilty	"I vary the sentence so that it shall be as follows -- To be reduced to the ranks and to undergo detention for 90 days -- and confirm the finding and sentence as so varied."
	<u>2nd Charge</u> Sec. 11 A.A.	Guilty	Guilty	

To be omitted to substantiate record of finding
and sentence for a period of 90 days

IRS.
P. R. SHIELDS, COL.
R.D.T., Cdn. Corps.

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

I certify that the above Court assembled on the 12th day of Sept 1942 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

- I also certify that --
1. The members of the Court
 2. The witnesses
 3. The interpreter
 4. The officers under instruction
- were duly sworn. 3 T.A. Court stenographer

Signed this 12th day of Sept 1942
H. H. Shepard
President of the Court Martial

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this _____ day of _____ 19____
President of the Court Martial

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

*I direct that the soldier named in the margin be not admitted to prison until further orders.

Signed this 13th day of September 1942

* To be omitted unless penal servitude or imprisonment having been awarded. The Confirming Officer either has the authority to commit to prison, or having such authority, recommends suspension.

Promulgated and extracts taken in the case of
(a) (Dated) 14 Sep 42 B. 94688 Cpl EVERINGHAM, L.C.
Promulgated and extracts taken in the case of _____
(Dated) _____
Promulgated and extracts taken in the case of _____
(Dated) _____

(g) When several cases are promulgated on one unit on the same day the Officer must sign once.

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

(P. R. Shields), Colonel
Commanding R.C.A.F.C. 1 Cdn. Corps
(Signed) H. H. Shepard
President

Appointment acting rank or acting appointment, if any, to be stated in brackets after the rank.
Unless unavoidable, not more than three names are to be entered on one form, and in serious cases.
Recommendation to mercy, if any, to be inserted in this column. Initials are sufficient.
It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns must be initialled by him.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B. 94688 Corporal Everingham, L.C. No. 6 L.A.D. att'd RMR (MG)	<u>1st Charge</u> Sec. 11 A.A.	Gilty	Guilty	"I vary the sentence so that it shall be as follows -- To be reduced to the ranks and to undergo detention for 90 days -- and confirm the finding and sentence as so varied."
	<u>2nd Charge</u> Sec. 11 A.A.	Gilty	Guilty	

R.S.
P. S. SHIELDS, COL.
R.B.S.T., Cdn. Corps.

*To be omitted to substantiate rank of Private --
To undergo detention for a period of 90 days.
12/7/42. W. Shepard Major*

* Question to be asked of accused, if he pleads not guilty (R. of P. 29 (A) 1) --
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) --

Signed: P. S. Shields (P.S. Shields), Colonel
Commanding R.C.A.S.C., 1 Cdn. Corps
Confirming Officer (d)

Signed: W. Shepard Major
President.

- (a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialed by him.

3

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

I certify that the above Court assembled on the 12th day of Sept 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

B.

Certificate of President as to proceedings

I also certify that:--

1. The members of the Court
 2. The witnesses
 - ~~3. The interpreter~~
 - ~~4. The officers under instruction~~
- were duly sworn 3 Th Court stenographer

Signed this 12th day of Sept 1942

W. Shepard Major
President of the Court Martial

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this _____ day of _____ 19__

President of the Court Martial.

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

D.

Confirmation

* (I direct that the soldier named in the margin be not committed to prison until further orders.)

Signed this 13th day of September 1942

P. S. Shields
Confirming Officer
P. S. SHIELDS, COL.
R.B.S.T., Cdn. Corps.

Promulgated and extracts taken in the case of B 94688 CPL EVERINGHAM, L.C.
(a) (Dated) 14 Sept 42 (Signed) W. Shepard

Promulgated and extracts taken in the case of _____
(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of _____
(Dated) _____ (Signed) _____

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

Richard A. [unclear]
R.O.A.M.C.

Richard A. [unclear]

This is to certify that I have examined B94688
Cpl. Everingham, I.C. and find him fit to undergo
trial by court-martial.

In the field
12th. Sep. 42

CHARGE SHEET

B94688 Cpl. Lloyd Cecil Everingham, No. 6 L.A.D. attached to The Royal Montreal Regiment (MG) is charged with,

while on active service,

First Charge

A.A.11

Neglecting to obey Bn Orders,

in that he

On 7 Sep 42, in London sold to 2352397 Sgmn. Graham, Canadian cigarettes, contrary to R.M.R. (MG) Order No. 122 of 1942.

Second Charge

A.A.11

Neglecting to Obey Bn Standing Orders,

in that he,

On 7 Sep 42, was found to be in London, a place beyond the three mile radius of Camp without a pass, contrary to R.M.R. (MG) Standing Camp Orders issued 25 Aug 42.

10 Sep 42

J.A. Calder
(J.A. Calder) Lt. Col.
Commanding R.M.R. (MG)

To be tried by Field General Court Martial.

Field.
11 Sep 42

P.R. Shields
(P.R. Shields), Colonel,
D.B.S.T.
1 Cdn. Corps.

B 2
[Signature]

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL

held in the field, 12th Sep 42 by order of Col. P.R. Shields, D.D.S.T.
1 Cdn Corps dated 11 Sep 42.

Major H.G. Shepard President 63 Cdn Gen Tpt Coy
H.C. Members
Capt. H.G. Jockel 9 Cdn Non Div Ord W/S, R.C.O.C.
Lieut. J.H. Buck 7 Cdn Lt. A.A. Rest.

Prosecutor - Capt. B.W. Stevens - R.M.R. (MG)
Def. Off. - Lt. G.T. Kirk - No. 6 L.A.D. att. R.M.R. (MG)
Accused - B94688, Cpl. Everingham, L.C. - " "

At 1000 hrs the trial began.
The accused was called and identified and the court order was read by the President and attached to the proceedings.
The accused was given the opportunity of challenging the members of the court and the shorthand writer. (R.P. 25 (1))
The members of the court and the shorthand writer were sworn.
The charge sheet was read by the president and attached to the proceedings.

The accused pleaded Guilty on both charges.
Rule of Procedure 35 (b) was complied with relating to the accused understanding the nature of a plea of Guilty.
The prosecutor presented the following Exhibits to the Court. These were attached to the proceedings.

Exhibit "A" - R.M.R. (MG) Standing Orders regarding passes being required outside of a 3 mile radius from camp.
Exhibit "B" - Certificate of arrest of accused in London.
" "C" - R.M.R. (MG) Standing Orders regarding the re-sale of gift cigarettes.
Exhibit "D" - Statement of 2352398, Siam. Graham, Royal Corps of Sigs who purchased cigarettes from the accused.
Exhibit "E" - Statement of Sgt. Kelly of Spec. Invest. Dept. C.M.E.R.
" "F" - Cigarettes retrieved from Siam. Graham.
" "G" - Cigarettes found on person of the accused.
" "H" - Voluntary confession of the accused.

The accused was asked by the President if the statement he made to the Cdn Provost Corps was voluntary and the accused replied in the affirmative.

The Defence officer made the following statement as to character of the accused:-

The accused had a clear conduct sheet throughout the last war and to date in this war. He landed in England with the R.C.O.C. on 9 Feb 40 and has since married over here. On the date of the offences he had arranged to meet his wife at Raynes Park as it was her birthday. Had he not been apprehended he intended to be back in camp within 3 hours. I wish to point out that the cigarettes sold were four packages and that they were sold to a British soldier, and wish the court to take the amount and recipient into consideration when considering sentence. The accused is one of my best M.V. Fitters, and I am sure the offence was a result of his wife's birthday and the fact that he was short of funds. The offence was not premeditated, the accused did not collect the cigarettes for re-sale and I know he approached several of the men to make a loan before the offence.

The prosecuting officer presented certified copy of Conduct Sheet of accused (Exhibit "I") and Statement as to Character of Accused, A.F.B. 296 (Exhibit "J") to the court. These were attached to the proceedings.

The court was closed for consideration of sentence.

[Handwritten signature]

Summary of Evidence
074688 Corporal Coeringham L.C. No 6.
Lad No. 6. attached to The Royal Montreal Regt (106).

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

First Witness

To the Prosecution: 076340 Lt Col Hayden W.C., M.C., having
been duly sworn states: "I am C.O. of HQ Coy
The Royal Montreal Regt (106), No 6 Lad are attached
to HQ Coy for administration and discipline. I
present in evidence Standing Orders for
Wegate Camp Paragraph 7 of these orders
states that a pass is required by personnel
proceeding outside a three mile radius of
Camp. The accused had not been issued
with a pass on 7th Sep 42. These orders are
attached as Appendix A. I also present certificates
of arrest in accordance with PC 27979/10 6/42
and section 689 of the C.A. in evidence that the
accused was arrested in Hamilton at 2000 hrs 7th Sep 42.
This is attached as Appendix B. I also present
The Royal Montreal Regt (106) Battalion order No
102 of 1942 forbidding the illegal sale or
disposal of baradians cigarettes. This is
attached as Appendix C."

W. J. [Signature]

W. J. Hayden
076340 Lt Col Hayden W.C.

The accused does not wish to cross examine.

Second Witness

To the Prosecution: 2352397 Sgt James Graham. A written
statement of this witness evidence purporting to be signed
by him has been read to the accused and is attached
to this summary as Appendix D.

Due to the exigencies of the service the
witness cannot be readily produced.

The accused does not demand a

the attendance of this witness for cross
examination.

Third Witness
For the Prosecution

B 88712 Sgt J. Kelly, I. I. S. Bar 49

A written statement of this witness
evidence purporting to be signed by
him has been read to the accused
and is attached to this summary
as Appendix E. The packages of
cigarettes referred ^{to} as having been
taken from ^{the} ~~gun~~ ^{Chateau} and
having been found ^{on} ~~of~~ the
accused's person are attached
as Appendixes F and G respectively.
Due to the exigencies of the service
the attendance of this witness
cannot be readily procured.
The accused does not demand
the attendance of this witness
for cross examination.

The accused having been
cautioned in accordance
with R. P. 410, ~~has~~ ^{not} ~~been~~ ^{been} ~~advised~~ ^{advised}
the submit to be attached statement
(Appendix H.)

W. J. Kelly

certified that R. J. (C) (S) (S) (S) (S) have
been completed with. Taken down by
me in the presence and hearing of
the accused the said day September
1942

Edw. Stevens Capt.
The Royal Montreal Reg. S. (M.)

[Handwritten signature]

No. 87668 Name EVERINGHAM, L.C. Sqn., Battery, or Company } R.C.O.C.
 Date of last entry in Company Conduct Sheet } - No. and date of last drunk } - Period not reckoning towards freedom from extra fine } - Date of enlistment } 19 JAN 46 G.C. Badges } 1 Service or Proficiency Pay } 11M-7-41 (1219-10) M.F.M. 6 (AFM 177) (11-7-41) (1219-10) H.Q. 1773 59-1652
 Signature O.C. } J.L. BLUE Character } CAF
 Company, etc. } CAF Sheet No. 1

Place	Date of offence	Rank	Character of Offence	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
<p><i>At the end of two years service there were no regimental entries on conduct sheet.</i></p> <p><i>J.L. BLUE CAF</i></p>								
<p><i>certified</i></p> <p><i>[Signature]</i></p> <p>CERTIFIED COPY</p> <p><i>[Signature]</i></p> <p>[S. W. STEVENS CAP. & AM.] For O.C. B.M.S. (112)</p>								

Edith H
The Hospital, Major

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
394688	Cpl	EVERINGHAM L.C. ROCC NOBLEAD.	

1. The following is a fair and true summary of the entries in the 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 and of cases in which trial has been dispensed
with.

	Within last 12 months	Since enlistment
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct N/L.

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
Air Force Act A.F.A-75
Section 47 of the Army Act and dispensation with trial under A.A. Is. 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 11 1/2 days in
civil custody, and 3 days in military custody, making a total of 3 days in custody,
of which N/L days were spent in hospital.

5. The present age of the accused according to his record of service is
attestation paper is 45 yrs. 9 mos. 26 days

6. The date of his commission specified in his record of service is
attestation attestation paper 19 JAN 1940

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

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 an air force decoration, or air force reward (or is
military military
in possession of or entitled to). State any air force decoration or reward. 1914-1915 WAR MEDALS.
military

10. (If the accused is a warrant officer) The accused before he was made a warrant officer had 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 ^{unit} 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 Warrant Officer years 10 months
 in the rank of Corporal years 2 months
 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 Air Force Act, and of cases in which trial has been dispensed with of accused, Number _____ Rank _____

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 Resulted
<i>(The entire table content is crossed out with a large diagonal line.)</i>				

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 twentieth day of September 1942
[Signature]

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.

116. MILITARY PERSONNEL VISITING CLUBS (CONTINUED)

Should the police upon subsequent investigation ascertain that such club has acted in such a manner, the persons responsible may be charged with the selling of intoxicating liquor without a licence, and if found guilty would be convicted of keeping what is termed a "bogus club". The effect of this conviction renders all persons found on the premises, whether they are in possession of alcoholic liquor or not, liable to conviction for being found on the premises for the purpose of illegally dealing in liquor, even if it be during the "permitted hours".

It is not possible for the police to say prior to a visit whether or not a club complies with the law, as it is only upon subsequent investigation that the bona fides of a club can be ascertained. Therefore any person using a club incurs the risk of being involved in proceedings, even though they have been admitted as a member or a visitor, should it be ascertained that the keeper has committed an offence under section 82 of the Licensing (Consolidation) Act, 1910.

(Corps O. 158/42)

117. DAMAGES BY CANADIAN TROOPS

1. Cases are occasionally reported of wanton damage to property and theft of stores, poultry, etc., by Canadian Troops.
2. These practices, besides causing inconvenience and loss to the owners or tenants, reflect seriously on all Canadian Troops in this country.
3. The attention of all ranks is drawn to the fact that, in cases where, while individuals have not been identified, it is determined that the personnel of one unit or sub-unit are clearly responsible, and the evidence shows negligence in unit or sub-unit administration and discipline, then this liability may be placed upon the unit commander concerned.

(Corps O. 159/42).

118. USE OF CRASH HELMETS

1. The life and continued efficiency of a motor-cyclist may depend upon his crash helmet, and it is, therefore, important both that these should be properly worn and that regular inspections are carried out to ensure that they are in good order.
2. Motor-cyclists will never be permitted to ride with the chin-strap of their helmet unfastened. Most head injuries occur after the rider has been thrown from his machine, and if the chin strap is not fastened the helmet may fall off at the moment when it is most needed.
3. The protective value of the crash helmet depends on the following points:-
 - (a) The integrity of the outer shell. Helmets which show cracks in the outer shell will be returned to stores. The most common place for a crack to develop is at the rim, which is the weakest part of the helmet.
 - (b) The firmness of the inner sling. The loops of the inner sling should be free from tears and all the stitching of the slings should be firm.
 - (c) The lacing or cord which holds the loops of the inner sling on the crown of the head should be firmly tied, and in such a way that when the helmet is fitted the inner sling keeps the man's head well away from the outer shell of the helmet.

Sheet 3 follows.

BATTALION ORDERS

BY

LT.-COL. J.A. GARDNER

**COMMANDING THE ROYAL CANADIAN MOUNTED POLICE (RCMP)
CANADIAN ARMY - ENGLAND**

17 APR 42

PART I

Doc. III-126

14. AMMUNITION

1. Part I Order No. 109, dated "Provisions and Cartridges" shall continue to apply. Defects "Provisions and Cartridges" shall be reported to the appropriate authorities.
2. Part I Order No. 112, dated "Provisions and Cartridges" shall continue to apply.

15. DEFECTIVE - OFF VEHICLES IN G. AREA

1. In the absence of para 15 of P.O. 109, all vehicles will NOT have access to any station except for one hour during the day.
2. Defectors may attend two stations during morning and afternoon hours and between 1745 and 1815 hrs.

16. TIRE PRESSURE

1. Further to Part I Order No. 95, dated Mar 42, para 3.
2. The following tire pressures will be maintained on vehicles and also until further notice:-

Vehicle	Size	Tire Pressure		Tire Pressure	
		Front	Rear	Front	Rear
4x4 1/2-ton	30 x 16	24	24	16	16
4x4 1-ton	30 x 16	24	24	16	16
4x4 1/2-ton (old)	30 x 16	24	24	16	16
4x4 1-ton (new)	30 x 16	24	24	16	16
4x4 1/2-ton	30 x 16	24	24	16	16
4x4 1-ton	30 x 16	24	24	16	16
4x4 1/2-ton	30 x 16	24	24	16	16
4x4 1-ton	30 x 16	24	24	16	16
4x4 1/2-ton	30 x 16	24	24	16	16
4x4 1-ton	30 x 16	24	24	16	16

The above pressures will be adopted at once, and for present conditions figures shown under "Road Test" will be used.

(Order G. 175/42)

17. NIGHT LIFE - MILITARY PERSONNEL VISITING CLUBS

1. For the information of all ranks, the presence of all military personnel who may be found in a club, either in the capacity of a member or a visitor, at the time the premises are visited by police under a warrant is as follows:

Under section 32 of the Licensing (Mines and Quarries) Act, 1911, the Justice may grant a warrant authorizing a visit to a club in which it is believed that illegal sales of intoxicating liquor have taken place. The principal form of illegal sale is a sale to a person who is not a member of the club.

Sheet 2 follows

17 APR 42

PART I

Nos. 113-128

N. L. Hayden

118. USE OF CRASH HELMETS (Continued)

(d) The cord which passes around the rim of the helmet is responsible in some types of helmet, crash H.M., for connecting the inner lining to the outer shell. If it is broken all the protective value of the inner lining is lost. Therefore the outer cord of the helmet should not be frayed, and its end should be firmly tied.

(Corps O. 16/42)

119. SALVAGE - DISCONTINUED METAL TUBES

1. Future supplies of tubes for tooth paste and other toilet and pharmaceutical preparations issued to a very large extent on the authority of all types of unalloyed metal tubes, such as are used for sterilizing these preparations. All such metal tubes should be put in the proper salvage container.

(Corps O. 163/42)

20. NAME ERROR ON 1" MAP, SHEET 124

1. There is an error on G.S.G.S. 3907 (1 & 2 1"), sheet 124, Second War Edition, 1940. In square 6241, the name "FAST GRINSTEAD STA" should read "WEST GRINSTEAD STA".

2. A warning will be issued to all troops in possession of this sheet and they will be instructed to correct the sheet by hand, crossing out in ink the word "FAST", writing "WEST" in the margin and drawing a short line to indicate where it belongs.

3. Future reprints will have the name corrected.

(Corps O. 173/42)

121. MESSING - FURNISHING ARRANGEMENTS ON LEAVE TRAINS

1. The withdrawal of buffet and restaurant cars from most of the long distance trains has led to greatly increased demands on railway refreshment rooms and restaurants, which they cannot meet in full. All ranks are therefore warned to make their own arrangements to provide themselves with food before long journeys when going on, and returning from, leave.

(Corps O. 181/42)

122. CIGARETTES FROM CANADA - FURNISHING BASIS OR DISPOSAL

1. It has come to notice that members of the Canadian Army receiving gifts of cigarettes from Canada are re-selling them to civilians in the United Kingdom as gifts of otherwise. Attention is directed to Part I Orders 199 and 341 of 1941, and it is again emphasized that the privilege extended by the British Government was only in respect of cigarettes or tobacco sent from Canada for personal use, i.e., consumption by the recipient himself. Any other dealing by recipients with cigarettes or tobacco from Canada is hereby forbidden. The sharing of cigarettes or other gifts with other Canadian Army personnel and the free distribution by the C.A. or other individuals of such gifts among Canadian Army personnel are exempted from the provisions of this order.

2. The use of regimental funds for the purchase of cigarettes or tobacco in Canada for delivery in the United Kingdom, and the sale of any duty free cigarettes or tobacco in messes and canteens, are also contrary to the privileges extended by the British Government, and are hereby forbidden.

10,000 G.S.G.S. 1360, as amended by C.A. G.S.G.S. 16591.

Sheet 4 follows

App. '8'
Exhibit F
W. H. Hayden

123. DAMAGE TO SMALL ARMS BY
FAULTY AMMUNITION.

1. Cases have recently occurred where a bullet has stuck in the bore of the barrel, the following bullet striking it and bulging or bursting the barrel. This is probably due to the former cartridge containing either insufficient or defective propellant.
2. When a stoppage occurs or something unusual is suspected, the officer in charge must examine the barrel to see if the bullet is lodged in the bore before the firer reloads and continues firing. A dull sound instead of the usual sharp crack sometimes indicates something unusual. In recoil, gas operated or blow back guns, the mechanism may stop in the forward position with an empty cartridge case in the chamber, the force of the explosion being insufficient to overcome the inertia of the mechanism and spring.
3. If a misfire occurs due to excessive cartridge headspace, worn striker or a faulty cap in the cartridge, care should be taken to see that when the cartridge is withdrawn the bullet is not left sticking in the lead of the barrel. This is most likely to happen where the bullet is a slack fit in the cartridge case.
4. All occurrences of this nature will be dealt with in accordance with Part I order No. 83 of 1942.

(C.A.Os.R.O. 1769).

124. MARRIAGE - CANADIAN
ARMY OVERSEAS

1. With reference to Part I Order 375 of 1941, it is advised that permission to marry will not be granted to a member of the Canadian Army unless he has been examined by the unit Medical Officer who will certify that he is free from all venereal diseases. This certificate will be appended to Application for Permission to Marry.

(C.A.Os. R.O. 1773).

125. GUNS, MACHINE, BREW. .303-INCH, MK. I
CHAMBERS, CARE OF

1. A number of cases have been reported of damaged chambers of Bren Guns and barrels, the lip of the extractor recess which is quite sharp, being badly barbed, thus obstructing and preventing rounds fully entering the chambers.
2. The damage is apparently caused by the face of the barrel striking against projections of the body when stripping and assembling during training; also carelessness in use of cleaning rod, the front edge of cleaning rod stop striking sharp lip of extractor.
3. Greater care must be exercised during training, and a leather or rubber washer slipped over the end of the cleaning rod to protect the face of the barrel when cleaning.

(C.A.Os. R.O. 1777).

126. GLOVES, ANTI-GAS

1. It has come to notice that some difficulty is experienced in tightening the webbing straps of new oilskin anti-gas gloves owing to the straps having become covered with the oil with which the gloves themselves are coated during manufacture. This oil, when dry, prevents easy running of the straps through the buckles.
2. If the webbing straps are run through the buckles several times before the gloves are put on, it will be found that straps can be buckled without difficulty. When this is done the gloves is more comfortable in wear and does not tend to slip off.

(C.A.Os. R.O. 1780)

Sheet 5 follows

127. DEPENDENTS' ALLOWANCES
DEPENDENTS' ALLOWANCES (M.A. 100. 100. 100)

- Under the authority of Order in Council PC 6/1242, Dependents' Allowance, granted on behalf of a dependent of a member of the Canadian Army assigned to a position in the Public Service was discontinued from date of such assignment, or from 1 Mar 42, if assigned prior to that date, for the duration of such employment.
- It is now clarified for the information of all concerned, that in accordance with Order in Council PC 95/9823, dependents of members of the Canadian Army, who are employed in the Public Service as stenographers or Typists, Grade 1, 1A or 2, are entitled to receive Dependents' Allowance in addition to their full salary, with effect 1 July 41.
- In this connection, it will be necessary in every instance for an officer or soldier whose dependent is affected, to make application to the Unit Paymaster for Dependents' Allowance on behalf of his dependent.

(C.A. Co. R.O. 1804)

128. 1942 CANADIAN VICTORY BOND

- Arrangements have been made whereby personnel of the Canadian Army Overseas may procure 1942 Canadian Victory Loan Bonds, either by a monthly assignment of pay, or by outright purchase.
- For full particulars and necessary forms, personnel should apply to the Unit Paymaster.

(C.A. Co. R.O. 1805)

C. A. Co. Paymaster
 for
 W. A. Galt, Lt. Col.,
 Commanding C.A. Co.

FOR INFO

129. LOSS OF MAIL BY AIR SERVICE

Information has been received that mail as listed below from the Canadian Army Overseas for Canada, U.S.A. and beyond, have been lost due to enemy action.

Letters and Periodicals posted approximately 3, 4 and 5 February.

Newspapers posted approximately 4 February.

Magazines posted approximately 3 and 4 February.

Money paid for Air Transportation in Canada, U.S.A. and beyond posted approximately 3 and 4 February.

(C.A. Co. R.O. 1806 - 6 Apr)

25 Aug 42

STANDING ORDERS - TILGATE CAMP

N. C. Hayden

1. ROUTINE HOURS

Reveille	0630 hrs
Breakfast	0715 hrs
Morning Parade	0820 hrs
Sick Parade	0900 hrs
Dinner Parade	1215 hrs
Afternoon Parade	1320 hrs
Supper Parade	1715 hrs
Tattoo	2200 hrs
Lights Out	2230 hrs

Exhibit B
[Signature]

2. GUARDS

The guard will consist of 1 N.C.O. and 10 men supplied by the duty Coy.
The guard will be mounted by the Bn. Orderly Officer at 1830 hrs daily.
There will be 3 posts - 1 at entrance to camp from Crawley, 1 at rd. jct W. of R.A.F., and 1 at Tilgate House and one stickman.

3. FATIGUES

The following are to be supplied by the duty coys:
Mens' Mess Halls and cookhouses - 8 men
Firemen - 4 men (2 day, 2 night)

4. TRANSPORT

No vehicle will be allowed out of camp without a proper work ticket, this includes C.O.'s, 2 i/c's and coy comd's vehicles.
All vehicles (with the exception of C.O.'s, 2 i/c's and coy comd's if they themselves are in the vehicles) will be stopped by the sentry and the work tickets examined.
When C.O., 2 i/c or coy comd are in vehicle they may sign their own work ticket.
At all times and for all other vehicles work tickets must be signed by the adj or T.O.
System of one way roads as per appendix "A".
Speed limit in camp will be 10 m.p.h.

5. HUT ORDERLIES

One orderly will be detailed for every 3 huts. Orderlies are responsible for the maintenance of fires in their huts and safeguarding of personal property in the huts.

6. VENTILATION

The doors of living huts will be left open from 0900 hrs till 1200 hrs for ventilation.

7. BOUNDARIES AND PASSES

Boundaries of camp are shown on Appendix "A" - remainder of area is out of bounds. All civilian houses and NAAFI living qtrs. are out of bounds.
Passes will NOT be required by other ranks proceeding to within a 3 mile radius of camp up to 2200 hrs. Passes will be required after 2200 hrs and beyond 3 mile radius.

8. SANITATION

Each unit will provide their own sanitary personnel and will be responsible for the cleaning of all huts occupied and latrines, ablutions, etc. used by the members of their unit. When two or more units share the use of latrines and/or ablutions the responsibility will be on the basis of one week in turn.
Officers' mess will be responsible for the cleanliness of Officers' lines.
E.Q. Coy will be responsible for the cleanliness of the Sgts' lines, cookhouses, canteen and Gas Cleansing Centre.
Messing Officer will be responsible for the cleanliness of the mens' messes and cookhouses, assisted by Sgt. Cook and necessary fatigues.
Swill will be collected daily by contractor but it is a unit responsibility to ensure that swill is free from all foreign matter.
The Regt'l Sanitary section will supervise the handling of these duties and assist units with any problems.
(sheet two follows)

[Signature]

(Sheet two)

9. SALVAGE

Units will have three sandbags per hut in which salvage will be placed. H.Q. Coy will arrange for the emptying of these bags and the disposal of salvage.

10. WATER

The water supplied to this camp is strictly limited and controlled. In no cases are supplies to exceed 80 gals per man per day, including latrine facilities. When this is exceeded early in the day no water will be available until the next day. Water from camp sources will NOT be used for washing vehicles nor will water trucks be filled from this source. These restrictions should be impressed upon all ranks.

11. H.A.A.F.I. CANTEN

Hours: 1245 - 1315 hrs.
1800 - 2145 hrs.

The Orderly Officer will visit this canteen once by day and once by night

12. FIRE ORDERS AND F.A.D.

Fire orders and F.A.D. orders will be issued later as Appendix.

13. BLACKOUT

Steps will be taken to ensure that all huts are 100% blackout proof, and units will be responsible for the maintenance of their huts in such a condition. Blackout hours as laid down in the press will be adhered to.

14. WALKING ON ROADS

Personnel walking on roads through camp and on highway outside camp area will walk in single file on the right side, facing oncoming traffic. While personnel are not prohibited from riding into town in either M.D. or civilian vehicles should they be offered a ride, they will under no circumstance solicit such rides.

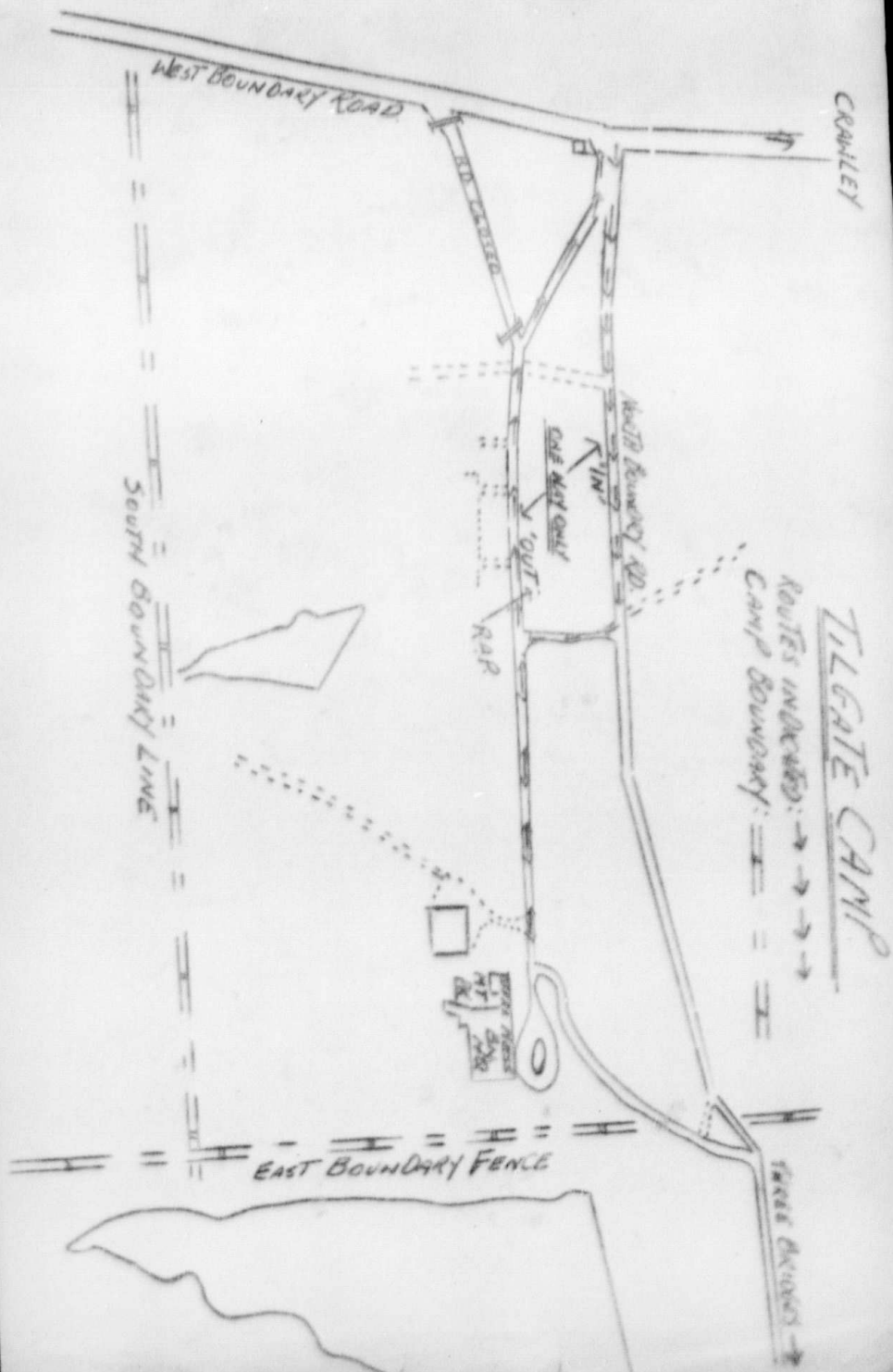
15. ADDITIONS AND AMENDMENTS

Additions and amendments to these orders as required will be published in Part I orders.

J.A. Calder
(J.A. Calder) Lt. Col.
Commanding R.M.E. (MG)

Distribution

A Coy	D Coy
B "	E.Q. Coy
C "	En. H.Q.



Allo ND IX H.

SPECIAL INVESTIGATION SECTION,
CIN PROVOST CORPS.

Exhibit C
just by you

The statement of Reg. No. B-94688, Rank Gpl, Name Everingham
Unit 6 LAD. att'd R.M.R. Date 8 Sept 42

I have been warned by Sgt. Kelly of S.I.S. that I do not have to say anything unless I wish to do so but that whatever I do say will be taken down in writing and may be used as evidence.
To show that I understand this warning I sign my name here.

L.C. Cunningham
I came to England on 9 Feb. 1940 with R.C.C.C. and have been attached to R.M.R. for over two years, and have a clean sheet.
On Sun. 6 Sept. 42 my wife visited me at Crawley and we made arrangements to see each other on Monday evenings as it was her birthday. I came up to Raynes Park last evening and I only had about ~~ten~~^{five} shillings. I brought along seven packs of Macdonald's Spot cigarettes with me.

On the way along the street to visit my wife I stopped an English soldier and sold him four packs of the cigarettes for 1/6 a pack. The police sergeant stopped me and asked me

what I had sold to the Soldier and
I told him that it was cigarettes.

He then escorted me to Wembleton
Police Station where I was turned over
to military escort. L.C. Cunningham
Witness - J. J. Kelly, S. I. S.

Appendix 'E'

in the file of
9 Sep 42.

Statement of B 58712 Sgt.
J. F. Kelly S. I. S. Bureau.

I produced as evidence
2 packets of Lipton cigarettes
each containing 25 cigarettes.
These were obtained from
2352397 Signalman Graham
J. by myself on 8 Sep
1942. I in Cpl Eschmayer's
effect 27 cigarettes of the same brand

J. F. Kelly
10 58712 SGT. KELLY JF.

Exhibit D
Washed up

Exhibit E

Hypnotic

In the Field.
8 Sept. 42.The Statement of 235 2397 - Squire
GRAHAM, J =

at about 2000 hrs on 7 Sept. 42
I was stopped on the street in
Raynes Park by a corporal of
the Cdn Army who told me
he was broke. He offered to
sell me cigarettes, of which
he had a boxful. I bought
4 packs of 25 each for 1/6 a
pack. A few moments later I
was stopped and questioned
by a Police Sergeant.

The two packs of cigarettes
which I have turned over to

Sgt Kelly of Special Invest-
igation Section are two of the
four which I bought from
the corporal. The corporal had
perhaps 7 or 8 packs when
I first spoke to him.

Witness -
J. Kelly, Sgt.
S. I. S.

J. Graham.

"APPENDIX B"

W. Hayden
276th CSM Garrison, A.C. HQ.

CERTIFICATE IN ACCORDANCE WITH P.S. 2297 OF 10 APR 42

I CERTIFY that No P-94688, Rank Spl. Para ... Everingham, I.C......

Unit R.C.O.C. No. 8 I.A.B. att. R.M.P. was arrested at London.... (Place)

at 2000.... (Hour) on 7-9-42..... (Date) and that at the time of his arrest he was wearing (Military Uniform) or ~~XXXXXXXXXXXXXXXXXXXX~~
Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the commanding officer of the portion of His Majesty's Guard or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable)!

London
7-9-42

Edith G
Walter King

Baines..... Lieut.
Officer i/c Detention Room,
No. 8 Cdn. Provost Coy.

APPLICATION FOR F.G.C.M.

B94688 Cpl. Everingham No. 6 L.A.D. R.C.O.G.

LIST OF WITNESSES.

D76340 C.S.M. Hayden W.C., M.M., R.M.R. (M.G.)

2352397 Sgmn Graham R.C.S.

B36712 Sgt. Kelly S.I.S., C.M.H.Q.

W. S. Hayden

Application for F.G.C.M.

~~B94688 Cpl. Everingham No. 6 L.A.D. R.C.O.G.~~

LIST OF APPENDICES.

Appendix "A"	R.M.R. (MG) Standing Orders for Tilgate Camp.
Appendix "B"	Certificate of arrest.
Appendix "C"	R.M.R. (MG) Bn Order 122 1942.
Appendix "D"	Statement of Sgmn Graham.
Appendix "E"	Statement of Sgt. Kelly.
Appendix "F"	Packets of Cigs. handed to Sgt. Kelly by Sgmn Graham.
Appendix "G"	Packets of Cigs. found on Cpl. Everingham.
Appendix "H"	Statement of Cpl. Everingham.

I wish to have an officer
to find me at my trial and if
possible would like to have
Lieut Kirk, VC No 6 L AORCO.

L. C. Everingham

894688 J.C. EVERINGHAM CPL

9.12.42.

VV-146

TPR EVERS A-E

SCHEDULE.

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

Accused: H-77496 Tpr Albert Elmer Evers

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

(Note: As to findings for lesser offenses see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in loss of kit see RP 44 (n 6).)

AL present trial assistance for beginning in (date) (1)

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

Time in confinement awaiting present trial—a total of 17 days, of which 0 days were spent in hospital (1)

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

Sentence Awarded by the Court:

No findings 120 days detention
To be placed under supervision of pay in the amount
of \$2.18-3 back of apprehension

(Sgt) 25 Nov 43 (Sgt) Alvarado Maj.
Judge-Advocate, if any Date awarded President (RP 45, 50)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(2), RP 120(F), MML p 760.)

Date: _____ (Sgt) _____ Commanding

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

(For dates and powers see AA 54, 57, RP 37(D) (n 6)(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised. AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again. AA 57, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation. RP 53, MML p 65. Quoting after promulgation: KR Can 573. Dates out powers of reviewing offrs: AA 57, 57A, RP 33A, 54. The Confirming Offr must sign here personally. AA 172 (n 1).)

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

confirmed

I direct that the accused be not committed for prison or otherwise treated with further restraint (1)

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

Date: 27 Nov 43 (Sgt) J. S. Anderson
Commanding 2d Cdn Ctr CASC
Confirming Officer

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

Accused: Q E Evers Date: 29 Nov 43 Signature of Offr: W. Sinclair Capt. Adj. 15 Cdn Armd C Regt (M)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALED.

FIELD GENERAL COURT-MARTIAL

CPARO (In Rule of AFAB 10, P & S, 1964)

Convened by Order of 3rd A.D. T. P. C. M. A. Comd: CCRR 2 Cdn Ctr Initiated: 23 Nov 43

ACCUSED.

(As to trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appeal, Armt or A/Armt, if any, see AA 182, 183, fni, KR Can 306, 328, 330.)

Number: H77496 (a) Prmt R. (b) Appmt, A/R or A/Appmt. Full Christian Names: Tpr Albert Elmer Evers Surname: EVERS Unit: 18 Cdn Armd C Regt

W. Sinclair Capt. Adj.
15 Cdn Armd C Regt (M)
Review: PROCEEDINGS OF TRIAL.

Held in the Fd in (country): ENGLAND on (date(s)): 20 Nov 1943

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALED BY PREI OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Form ROs. For guidance on procedure when a variation in this form arises, see form for CCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for notes and instructions on how to record addresses, evidence, etc, which notes are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 101, 119, 132.)

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

(1. As to use of Summary of Evidence see RP 17 (n 5). 2. AA 49, 50, RP 105-107. 3. RP 11, 12, 21, 24)

A3. The Court is opened. The accused is ~~called~~ brought before the Court. As ~~1200~~ 1200 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial (2) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CM (3) NO

(1. KR Can 537. 2. AA 40(B), RP 60 (n 1). For effect see KR Can 563(c). Delete, if not applicable.)

A5. President is asked: Do you object to ~~an interpreter~~ an interpreter Yes
The interpreter is sworn (4) Do you object to ~~an shorthand writer~~ an shorthand writer Yes
The shorthand writer is sworn (5)

(1. RP 72. Delete, if not employed.)

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

Ans: No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 69(B). If objection, see procedure AA 51, RP 23, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offr under review~~, if any, are sworn (1) The following are the ranks, names and units of the members comprising the Court, etc:

President	<u>MG MAJOR</u>	<u>H.G. WILLIAMS</u>	<u>6 Cdn L.A.A. REGT. PCA</u>
Member	<u>CAPT.</u>	<u>A.H. ROBINSON</u>	<u>6 Cdn L.A.A. REGT. PCA</u>
Member	<u>CAPT.</u>	<u>A. LANDALE</u>	<u>6 Cdn A.T. REGT. PCA</u>

Judge-Advocate			
Prosecutor	<u>LIEUT</u>	<u>P.W.A. WIESNER</u>	<u>18 Cdn Armd C Regt</u>
Defending Offr	<u>LIEUT</u>	<u>J.F. BOWEN</u>	<u>18 Cdn Armd C Regt</u>

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

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Case Offr.)

(2. If Pres a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 3.)

A8. The accused H 77496 SEE ALBERT ELMER EVERS before arraignment make(s) (no) no plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 109E), or as to the jurisdiction of the Court (RP 34, 30A, 112), or in bar of trial (RP 26), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the conditions made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fni in RP cited. Insert in AB rank and name of the accused making the plea.)

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

(1. RP 31, 112. See para 1 of Instr p 2. Where more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 52, RP 53. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed~~ is closed considering the instructions on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

- I. If pleas to all charges are GUILTY, use Record Form B below.
II. If pleas to all charges are NOT GUILTY, use Record Form D on p. 3.
III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,
(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)
(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37(A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs 2).

3. As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 105; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C); 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.

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

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

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

President to accused: Do you wish to make a statement? Ans: Yes.
(1. RP 37(B). 2. RP 37(D) fn 4. 3. RP 115(B) fn 3 para 2, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

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

B4. On the charge(s) to which the plea(s) of guilty (are) not changed the President records finding(s) of Guilty in Part I of the Schedule. (1)
(1. RP 115(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex B, initialed and read aloud by the President. (1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(E). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by one of paras D1 to D6 inclusive of Record Form D on p. 3. RP 37(D)(1).)

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

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

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D6 inclusive of Record Form D on p. 3 and proceeding with C 2.(1)
(1. RP 37(A) (G).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above. (1)
(1. Under B1 each para only of the Summary of Evidence are read or refer to the charges dealt with under C2. If any plea is changed to Not Guilty, trial then proceeds by complying with para D1 to D6 inclusive in Record Form D on p. 3 and making an appropriate record thereof on a separate sheet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Use here Green Sheets of Record.

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

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

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

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

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans: No. Do you intend to call witnesses on your behalf? Ans: No. Are they witnesses as to character only? Ans: No.
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed. (1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 40(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 44, 103(B).)

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

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character? Ans: No.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 44 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service, and certified true copies of Conduct Sheet(s) reporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(2) (g) (h), and (ii) they purport to refer to (a) soldiers having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.
(1. MFS 255 or MFS 295. 2. MFA 4. 3. RP 44, KR Can 132. If above documents not produced, see RP 44 fn 1 para 7.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment? Ans: No.
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

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

E5. The Court considers the sentence. The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and 50, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 40. As to sentence see AA 44, 136, 182, RP 40-50, 69, 118, 119(A), 48, Can 222, 132, 262-264, Overseas AO 309, 2122, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 40(5), MML p 130. When accused guilty under sentence of imprisonment or detention see AA 44(1), 68(1), KR Can 264. 2. RP 30. As to release from arrest by Convening Offr see KR Can 547. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

JAG BRANCH - REVIEW RECORD

Accused

H- 77496 - Tpr EVERS, A.E.

B. Cdr. Amund C. Ruyt

Remarks	Date
Trial in (Country) <u>England</u>	<u>25 Nov</u>
Charges <u>22. etc</u>	
Sentence <u>20 days det in a stop</u>	<u>25 Nov</u>
Rec'd from CR at JAG Branch	<u>5 Dec</u>
To <u>Par 3</u> for (pre)(post) rev	<u>9 Dec</u>
Recommendations by <u>Int</u>	
(1) Pass and record.	
(2) dir on irregularities.	
(3) Quash _____ charge(s).	
(4) _____	
Ret'd to JAG Rev 1 by <u>Par 4</u>	<u>9 Dec</u>
Passed to _____	
Passed to _____	
To AG 5 for _____	
Ret'd from AG 5 to JAG Rev 1	
Instrs by JAG Rev 1 on disposal	
<u>Records & Files 9 Dec</u>	<u>9 Dec 13</u>
Instrs completed by _____	

CHARGE SHEET

The accused, H-77496, Tpr. Albert Elmer EVERS, 18th Armoured Car Regiment, (12th Manitoba Dragoons), a soldier of the Canadian Army Overseas, is charged with:-

First Charge
Sec 22, A.A.

WHEN ON ACTIVE SERVICE ESCAPING FROM CONFINEMENT

In that he,

in the field on 20 Oct 43, when in confinement of No. 1 Field Punishment Camp, Cdn. Pro. C., escaped at approximately 1800 hrs. on said 20 Oct 43.

Second Charge
Sec 19(1), A.A.

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

In that he,

in the field on 20 Oct 43, absented himself without leave from No. 1 Field Punishment Camp, Cdn. Pro. C., when in confinement, from approximately 1800 hrs. 20 Oct 43 until apprehended by Military Police in the Y.M.C.A., Carrington Street, Derby at approximately 2305 hrs. 24 Oct 43. (Absent 4 days, 5 hrs, and 5 mins.) Escort expenses involved in return of said soldier to No. 1 Field Punishment Camp, Cdn. Pro. C. amount to £2,18.3.

In the Field
19 Nov 43

P.C.P. Roberts
for (J.A. Roberts) Lt-Col, A.D.
Commanding,
18 Cdn Armd C Regt (12 D).

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
21 Nov 43

A.E.D. Tremblay
Brigadier
[A.E.D. Tremblay]
C.C.R.A. 2 Cdn Corps
A.E.W.

MEDICAL OFFICER'S REPORT

I certify that No. H.77496 Tpr Evers, A E
of 18 Cdn Armd C Regt is in a good state of health,
and fit to undergo Trial by Court martial.

J G Barrie
(J G Barrie) Capt RCAMC
Medical Officer
18 Cdn Armd C Regt (12 D)

Station In the Field.

Date 25th Nov 43.
265

EXHIBIT "A"
APPENDIX "A"
AHW

M. F. B. 246

FORM-5-40 (4397)
H.Q. 1773-09 480

FIELD GENERAL COURT-MARTIAL

CPA95 (In Use of AFAS)
40 JAN 1957 (2592)

(Whether the accused to be tried in his kind or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MM, Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (c) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KH Can 300, 320, 330.)

ACCUSED.

Number. (a) Prmnt R. (b) Appmt, A/R or A/Appmt. Full Christian Names. Surname. Unit.
H.77496 Tpr ALBERT ELMER EVERS 18 Cdn Armd C Regt

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person ~~(X)~~ named above as the accused, being subject to military law, has ~~(X)~~ committed the offence ~~(X)~~ set forth in the Charge Sheet ~~(X)~~ attached and on ~~(date)~~ ~~22 NOV 43~~ endorsed by me, ~~FOR THE REASONS SET FORTH IN THE CHARGE SHEET~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence ~~(X)~~ should be tried by an ordinary General Court-Martial: ~~(DELETE THIS PARAGRAPH TO CONCLUDE THE TRIAL IN REFERENCE TO A SEPARATE CHARGE SHEET)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

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

4. ~~FOR THE REASONS SET FORTH IN THE CHARGE SHEET THE COURT TO BE APPOINTED IS COMPOSED OF THE FOLLOWING OFFICERS:~~
~~(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)~~

~~XX. THE FOLLOWING OFFICERS HAVE BEEN APPOINTED AS OFFICERS OF THE COURT:~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major H.G. Williams 6 Cdn LAA Regt RCA
(Rank) (Must be named. RP 106.) (Unit)

MEMBERS.

Capt. A.H. Robinson 6 Cdn LAA Regt RCA

Capt. A. Landale 6 Cdn A/Tk Regt RCA
(Rank) (Named or detailed. RP 106.) (Unit)

WAITING MEMBER.

Lieut. J.K. Heath 6 Cdn A/Tk Regt RCA
(Rank) (Named or detailed, if any. RP 106.) (Unit)

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in England
(Country)

Date 23 Nov 43

(A.E.D. Tremain)

C.C.B.A., 2 Cdn Corps
Convening Officer.

Brigadier
(Rank)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See heading for words and notes for use on trial.)

A.E.D. Tremain

H77496 1st. Albert Elmer Evers-

Good record as long as
he was kept busy & interested
in his work - when
on leaves or in a fairly idle
stage of training, he becomes
easily bored off &
consequently when someone
causes him to ~~be~~ absent
himself without permission
he is easily led -

In view of supposed
programme of the Canadian
Army in the near future I
~~think~~ ^{am sure} that 1st. Evers would
be a good & happy soldier
serving alongside his very
friends of his unit & that
it would be a waste of
good fighting material for
1st. Evers to be forced to
spend a prolonged period in
detention - ^{to mention} I
do not ask for this man

To be let off seat fare -
He has made a mistake &
is willing to pay for his
mistake, but I do ask ~~for~~
that this court be a limit
as they see fit under the
circumstances -

H. Brown, Lt
D. Brown
18th PER (12D)

Hew

Statement by the defending officer on behalf of Tpr. Evers, A.E.

I have known Tpr. Evers for two years. Tpr. Evers had a good record so long as kept busy, but appears to be easily led by others. I consider him a good soldier and of more use to the army in his unit than carrying out a long term of detention.

A. W.

CHARGE

Army Form B 252

(See King's Regulations)

No. 1. F. P. Camp, Cdn. Pro C. Regiment
 Attached from Battery
 13. C. A. C. Regt. (12D) Squadron
 Troop or
 Company

CHARGE against No. B. 77496 Rank LT

Name BYRNE, A. E.

Place In the Field Date of Offence 20 Oct. 43.

OFFENCE W.O.A.S. Escaping from confinement
in that he at approximately 1900 hrs on
20 Oct 43, escaped from the lawful custody
of No. 1. Field Punishment Camp, Cdn Pro C.

Names of Witnesses: A, 21729 Sgt Berry, P.C.

Signature of O.C. Battery,
 Squadron, Troop or Company
 Punishment Awarded
 whom Awarded

*THIS IS EXHIBIT A REFERRED TO
 IN THE SUMMARY OF EVIDENCE TAID
 BEFORE ME THIS 15TH DAY OF NOVEMBER
 1943
 W. G. CASHILL
 (W. G. CASHILL) LIEUT.
 13 Cdn ARMD C REGT. (12 D)*

Assistant

SIR,

EVIDENCE

On 20 Oct 43, I was Orderly Sgt at No.1. F.P.Camp, Cdn Pro C.

At 1645 hrs I held a muster check of S.U.S. in camp and found all to be present and correct. At 1800 hrs I held a further muster parade and found H, 77496 Tpr Evers A.E. to be missing. This soldier was sentenced to 28 days F.P. on 14 Oct 43, and was due for release on 10 Nov 43.

A check of all the buildings and camp area established the fact that this soldier had escaped. I reported his absence to RSM, Tosdevin, C.

The S.I.S; Nos 11 & 13 Provost Coys and Duty Officer of 18 C.A.C. Regt (12D) were notified of the escape.

On checking his kit, I believe him to be wearing battle dress, anklets web, Military boots, and carrying a respirator. He was not wearing a field service cap and did not have M.B.M.1 Parts I, II or III in his possession.

F.C. Berry
A, 21729 Berry, P.C.

REMARKS

Expense Voucher Re-:

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

Reg. No. H 47776 Rank Tpr Name Evers, R.E. Unit 18 Amid BarThe following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London from Derby

Date	Particulars	Amount	
29 Oct. 43	Escorts return fare from LONDON To <u>Derby</u>	19	9
	Prisoners single fare to LONDON From <u>Derby</u>	9	11
	Prisoners fare from To		
	Escorts & Prisoners expense for Bed, Meals, Bus fares	7	9
		17	5

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

THIS IS EXHIBIT "C" REFERRED TO
IN THE SUMMARY OF EVIDENCE TAKEN
BEFORE ME THIS 15TH DAY OF NOVEMBER

1943

Will Small Lt.

(R.N. CABWELL) LIEUT

18 CDN ARMD C R ~~OFFICER~~ ^(LIEUT) Railway Warrant and Expense notes
No. 6 Area Provost Company, Canadian Provost Corps, London.

R.D. Grayson Capt.

Expense Voucher Re-

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

Reg. No. H/11776 Rank Priv. Name Evans, P.C. Unit 15 Canadian Coy

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

Date	Particulars ($\frac{1}{2}$ portion)	Amount	
<u>29 & 30/43</u>	Escorts return fare from LONDON To <u>Hornich</u>	<u>11</u>	<u>11</u>
	Prisoners single fare to LONDON From		
	Prisoners fare from <u>Leno</u> To <u>Hornich</u>	<u>8</u>	<u>11</u>
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		
	Total £	<u>1</u>	<u>10 10</u>

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.
 THIS IS EXHIBIT "D" REFERRED TO IN THE
 SUMMARY OF EVIDENCE TAKEN BEFORE ME THIS
 19TH DAY OF NOVEMBER 1943.

P. H. Caswell
 (R.N. CASWELL) LIEUT.
 15 CDR ARMD C REGT (12 D)

L. Brayson

Capt.

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

CHARGE

BC/347/43

Army Form B 252

(See King's Regulations)

18 CANADIAN ARMOURD CAR REGT Regiment

18th MANITOWA BNNS (DISGUARD)

Battery
Squadron
Troop or
Company

CHARGE against No. H/14496

Rank T/Pl

Name EVERS, A E,

Place

Date of Offence

OFFENCE W. O. A. S. ABSENT FROM?

until apprehended by the

Military Police in the Y.M.C.A

CARRINGTON STREET about 2305

hrs.

Names of Witnesses

4914233

N/C BARRATT W

4622228 A/CP SWANSON J

CN POWERS

~~CHAPMAN~~

~~CHAPMAN~~

~~CHAPMAN~~

~~CHAPMAN~~

~~CHAPMAN~~

~~CHAPMAN~~

~~CHAPMAN~~

~~CHAPMAN~~

~~CHAPMAN~~

~~CHAPMAN~~

~~CHAPMAN~~

~~CHAPMAN~~

~~CHAPMAN~~

~~CHAPMAN~~

~~CHAPMAN~~

~~CHAPMAN~~

~~CHAPMAN~~

Signature of O.C. Battery,
Squadron, Troop or Company
Punishment Awarded
By whom Awarded

THIS IS EXHIBIT 28 REFERRED TO
IN THE SUMMARY OF EVIDENCE TAKEN
BEFORE ME THIS 15TH DAY OF
NOVEMBER 1943

Michael R.L.

(E.H. CASSELL) LITBY Adjutant

16-0017-16K3-0-4-592-(12 2)

P.T.O.

Statement of EVIDENCE in the case of
H/441496 T/R EVERS, A.E.,
D SQUAD 18 CANADIAN ARMOURIED
CAR REGT 12 MANITOBA DBNS.
WOOLERTON CAMP NORTH WALTHAM
NORWICH

SIR

AT. DERBY on the 24th OCT/1943
about 2305 hrs I was on duty in
the Y.M.C.A. CARRINGTON STREET
where I saw the A/M soldier, B.
asked him to produce his pass
he stated that "I am absent", I
arrested and conducted him to the
SIDDAHS ROAD BARRACKS GUARDROOM, I
obtained his particulars and handed
him over to the N.C.O 1/c to be
detained.

DERBY
24th Oct/43

REMARKS

4914233 v. Barwatt/4
152 H & P Provost
COY
C M POLICE

SIR/

I have read over and corroborate
the above statement
2592228
159 20 11/4
DERBY
24th Oct/1943

List of witnesses for prosecution and defence in the case of H-77496 Tpr. Albert Elmer EVERS, 18th Armoured Car Regiment, (12th Manitoba Dragoons), charged with (1) Escaping from confinement and (2) Absenting himself without leave:

1. For the prosecution.

First Witness: A-21729 Sgt. Berry, F.C.,
No. 1 Field Punishment Camp,
Cdn. Pro. C.,
Cdn. Army Overseas.

Second Witness: 4914233 L/Cpl. Barratt, V.,
152 HQ Provost Coy., C.M.F.

Third Witness: 4622226 L/Cpl. Swallow, J.,
152 HQ Provost Coy., C.M.F.

Fourth Witness: Capt. H. Sinclair,
18 Cdn. Armcd. C. Regt. (12 B),
Cdn. Army Overseas.

2. For the defence.

Nil.

ASW

I desire the Convening Officer to detail
an officer to represent me at my forthcoming trial
by Field General Court Martial.

I desire the services of Lieut. J. F.
Bowes, 18 Cdn Armd C Regt (12 D), if he is
available.

A. E. Evers

19 Nov 43

(H.77496 Tpr. Evers, A.E.),
18 Cdn Armd C Regt (12 D)

ABW

List of exhibits in the case of H-77496 Tpr. Albert Elmer EVERS, 18th Armoured Car Regiment (12th Manitoba Dragoons), charged with (1) Escaping from confinement and (2) Absenting himself without leave:

1. Exhibit "A":

Statement of Evidence signed by
A-21729 Sgt. Berry, F.C.,
No. 1 Field Punishment Camp, Cdn. Pro. C.

2. Exhibit "B":

Statement of Evidence signed by
4914233 L/Cpl. Barratt, V ~~MM~~
4622228 L/Cpl. Swallow, J,
152 HQ Provost Coy., C.M.P.

3. Exhibit "C":

Expense voucher form CMHQ 1000:55
amounting to £1.17.5.

4. Exhibit "D":

Expense voucher form CMHQ 1000:55
amounting to £1.0.10

AW

Summary of evidence in the case of H-77496 Tpr. Albert Elmer EVERS, 18 Cdn Arm'd C Regt (12 D), 18 Armoured Car Regiment (12th Manitoba Dragoons), charged with (1) Escaping from confinement and (2) Absence without leave from 20 Oct 43 to 24 Oct 43.

The Commanding Officer has not directed nor has the accused demanded that the evidence be taken on oath.

First Witness

A-21729 Sgt. Berry, F.C., No. 1 Field Punishment Camp, Cdn Pro C,

"A document purporting to be a signed statement of the evidence of A-21729 Sgt. Berry, F.C., No. 1 Field Punishment Camp, Cdn Pro C, was read over to the accused, marked Exhibit "A", signed by me and attached hereto.

I certify that in my opinion owing to the exigencies of the service, including the time and expense involved, the attendance of this witness at the taking of the summary of evidence cannot readily be procured."

R.N. Caswell Lt
(R.N. Caswell) Lieut.
18 Cdn Arm'd C Regt (12 D)

Second Witness

4914233 L/Cpl. Barratt, V., 152 HQ Provost Coy, C.M.P.

"A document purporting to be a signed statement of the evidence of 4914233 L/Cpl. Barratt, V., 152 HQ Provost Coy., C.M.P., was read over to the accused, signed by me, marked Exhibit "B", and attached hereto.

I certify that in my opinion, owing to the exigencies of the service, including the time and expense involved, the attendance of this witness at the taking of the summary of evidence cannot readily be procured."

R.N. Caswell Lt
(R.N. Caswell) Lieut.
18 Cdn Arm'd C Regt (12 D)

Third Witness

4622228 L/Cpl. Swallow, J., 152 HQ Provost Coy., C.M.P.

"A document purporting to be a signed statement of the evidence of 4622228 L/Cpl. Swallow, J., 152 HQ Provost Coy., C.M.P. was also signed by 4622228 L/Cpl. Swallow, J., 152 HQ Provost Coy., C.M.P. read over to the accused, signed by me, marked Exhibit "B" and attached hereto.

I certify that in my opinion, owing to the exigencies of the service, including the time and expense involved, the attendance of this witness at the taking of the summary of evidence cannot be readily procured."

R.N. Caswell Lt
(R.N. Caswell) Lieut.
18 Cdn Arm'd C Regt (12 D)

Fourth Witness

Capt. H. Sinclair, Adjt., 18 Cdn Armd C Regt (12 D), states:

"I submit as evidence two expense vouchers, forms CMHQ 1000:55, showing expenses incurred in returning the accused and escort to No. 1 Field Punishment Camp of £1.17.5 and £1.0.10."

H. Sinclair
(H. Sinclair) Capt & Adjt.
18 Cdn Armd C Regt (12 D)

"The expense voucher, form CMHQ 1000:55, totaling £1.17.5, referred to by the witness, produced, read over to the accused, marked Exhibit "C", signed by me, and attached hereto."

"The expense voucher, form CMHQ 1000:55, totaling £1.0.10, referred to by the witness, produced, read over to the accused, marked Exhibit "D", signed by me, and attached hereto."

R.N. Caswell Lt
(R.N. Caswell) Lieut.
18 Cdn Armd C Regt (12 D)

The accused was warned as follows:

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

The Accused: I have nothing to say at this time.

A. E. Evers
(H-77496 Tpr. Evers, A.E.),
18 Cdn Armd C Regt (12 D)

I certify that R.P. 4 has been complied with.

Taken by me in the field in the presence and hearing of the accused this 15th day of November, 1943.

R.N. Caswell Lt
(R.N. Caswell) Lieut.,
18 Cdn Armd C Regt (12 D)

No. 77498 Name EVERE, Albert Elmer

Sqn., Battery, or Company "D" Sqn, Corps 18 Cdn Armd C Regt

Date of enlistment 30-6-41

G.C. Badges

Service or Proficiency Pay

M.F.M. 6 (A.F. B. 122) 40/T & 7/196 (2965)

Date of last entry in Company Conduct Sheet 25 Oct 41

No. and date of last drunk Nil

Period not reckoning towards freedom from extra fine

Sheet No. 1

Signature O.C. Company, etc. L. H. R. Street

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				8-2-42					
				Previous Sheet Destroyed					
Camp Shilo	2-9-41	Tpr	(1)	A.W.L. From 1800 hrs. 2-9-41 to 0200 hrs 3-9-41.	Documentary	21 Days Detention	2-10-41	Maj. H.S. Robinson	Forfeiture 26 Days pay escort Expenses £78.30
	6-9-41		(2)	A.W.L. From 6-9-41 to 1655 hrs 16-9-41.					
	23-9-41		(3)	A.W.L. From 23-9-41 to 2100 hrs 23-9-41.	XXXX				
	6-9-41		(4)	When in lawful custody escaping					
	23-9-41		(5)	When in lawful custody escaping					
otter Point	20-12-41			A.W.L. From 2130 hrs 20-12-41 until 1030 hrs 21-12-41.	S.S.K. Hill	28 Days Detention	22-12-41	Maj. H.S. Robinson	Forfeiture 1 day pay Under P.M. £1. (Pro)

EXHIBIT "D" How

Place	Date of offense	Rank	Class of discharge	OFFENSE	Name of Witnesses	Punishment awarded	Date of award or date when made with honor	By whom awarded	Remarks
Rennia Mex.	22-5-42 Tpr.			A.W.L. From the troop train at 0100 hrs 23 May 42 and remained absent until surrender to M.F. H. SEC32 at Winnipies Man., at 1700 hrs 28 May 42 - A.A. Sec 15 (1) Failure to appear at the place of parade appointed by his Com. Offr. A.A. Sec. 15 (1)	Documentary Cpl. Newcomer H. SEC32	14 Days C.B. Pay Stoppage for cost of transportation \$3.67	4-6-42	F.S.S. Coupland.	1st Lt. Col. offense 4 day's pay
Debert Camp	25-7-42 Tpr			Failure to appear at the place of parade appointed by his Com. Offr. A.A. Sec. 15 (1)	S.S.E. McCowan	144 hours detention	27-7-42	F.S.S. Coupland	
In the Field	26-11-42 Tpr.			A.W.L. From 0500 hrs 26 Nov 42 to 1200 hrs 26 Nov 42, neglected to get pass stamped by R.T.O.	Documentary Sgt. Bastable	14 days P.F.	26-11-42	Lt. Col J.S. McMahon	13 Days Pay.
In the field	26-1-43 Tpr.			Neglect to the prejudice etc. did not properly clean his rifle	Sgt Hinks	7 days C.B.	22 Apr. 43	A.I. Tryde Major	

19 Ordn Avnd C Bde. (18D)

No. H. 7744 Name: ALBERT SLING Name: ALBERT SLING No. and date of last drunk: Bgn. Battery: D or Company: D Date of last entry in Company Conduct Sheet: 30-3-31 G.C. Badges: Signature O.C. Company, etc. M.F.M. 6 40/P 2 (1965) (A.P. H. 127) Preference Pay: Service or: Character: 49/P 2 (1965) (A.P. H. 127) M.F.M. 6

Period not reckoning towards Freedom from extra fine Sheet No. 30-3-31 G.C. Badges: Signature O.C. Company, etc. Date of award or rank with this

Rank (Last of award or rank with this) OFFICER Names of witnesses: Promotion awarded: By whom awarded: Remarks: (Last of award or rank with this)

38 days S.F. 19 Aug. 43 J. V. Honnery Sr. J. 28 days S.F. 19 Aug. 43 T. J. DOI. P. S. J. 28 days S.F. 19 Aug. 43 P/Opt. mess and 13-8-3 P/Opt. mess and 13-8-3 P/Opt. mess and 13-8-3 P/Opt. mess and 13-8-3

W.O.V.S. AM from 2300 hrs to 0700 hrs until placed under close escort at 0745 hrs 19 Aug. 43

The Field CO THE BPN

28 days S.F. 19 Aug. 43 P/Opt. mess and 13-8-3

28 days S.F. 19 Aug. 43 P/Opt. mess and 13-8-3

28 days S.F. 19 Aug. 43 P/Opt. mess and 13-8-3

28 days S.F. 19 Aug. 43 P/Opt. mess and 13-8-3

28 days S.F. 19 Aug. 43 P/Opt. mess and 13-8-3

28 days S.F. 19 Aug. 43 P/Opt. mess and 13-8-3

28 days S.F. 19 Aug. 43 P/Opt. mess and 13-8-3

28 days S.F. 19 Aug. 43 P/Opt. mess and 13-8-3

Place	Date of offense	Rank	Name of Division	OFFENSE	Name of Witness	Punishment awarded	Date of award of order (to be filled with time)	By whom awarded	Remarks
Field	18 Oct 1941			V. A. SEC. NO (1) ACC TO HIS REG. - I/O UNIT died, ETC. did spit on the floor in of the hut in which he was quartered	WASHINGTON	30 DAYS E.S.	14 Oct, 42 Lt. Col	Hogden	88 days pay lost under P.M.I. 1st (2)
				(2) M.O.V.S. V.A. SEC. NO 2 (2) DIS I/O UNIT ORDERING A BARREL GUN AND GIVE I/O on by S.I.R. 101. ORDERED, RETURNED TO BANGOR wash the floor of the hut in which he was quartered when or- dered to do so.					
				This is a certified copy of the original now in my possession					

W. J. ...
0.2. D. Sqn. to 3rd Area (120)

EXHIBIT "C" *AW*

M.F.B. 355
SM 10-39 (2492)
H.Q. 1772-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number Rank Name Regiment (or unit)
H-77496 Tpr. Albert Elmer EVERS, 18 Cdn Armd C Regt (12 D)

1. The following is a fair and true summary of the entries in the Field Service and General
Conduct sheets Regimental and Squadron, Battery
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
For Sec. 15(1)AA, AWL	2 times	7 times
For Sec. 22 AA, escaping whilst in lawful custody	times	times
For Sec. 15(1)AA, AWL from parade	times	2 times
For Sec. 40 neglect to clean <u>Rifle</u>	1 times	1 times
<u>Instances of gallantry or distinguished conduct</u>		
Sec 40 Act to the prejudice of good discipline	1	1
Sec 9 (2) Disobeying a lawful command		1

There are no entries in the conduct sheets by 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 Air Force Act 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~~ *AW* ~~beginning on the~~
~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nill days in civil custody, and 17 days in military custody, making a total of 17 days in custody, of which nill days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ 23 years attestation paper is

6. The date of his ~~commission~~ 30 Jun 41 specified in his ~~record of service~~ attestation paper is

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

8. The accused is entitled to reckon 2 years, 5 months, 19 days ~~service~~ for the purpose of determining his pension, etc.

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

10. ~~If the accused is a warrant officer~~ *AW* ~~The accused before he was made a warrant officer 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

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 _____

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	Verdict of the Court	Punishment Remitted
(This section is crossed out with a diagonal line)				

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 25 day of Nov

*W. Sinclair Capt. R.C.A.F.
15 Cdn. Command C. Regt.*

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.

CA01-1-106 Lfr. Evers, A. E.

SCHEDULE.

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

Accused: H77496 TPR EVERS AE

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

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

At present under sentence for suspended 1 yr detn beginning on (date) 04 Jan 45 ^{RL}
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found in MF 8255 or AF 8296.)

Time in confinement awaiting present trial—a total of 52 days, of which 14 days were spent in hospital.⁽¹⁾
(1. See RP 46(A) fn 2. Information should be found in MF 8255 or AF 8296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of one year

(Sgd) "R LIVERMORE" Capt 12 Feb 46 (Sgd) "JA DURE" Major
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(1), RP 120(F), MML p 760.)

Date _____ (Sgd) _____ Commanding _____

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

(For duties and powers see AA 54, 57, RP 37(D) to 4.46(A), 51-56, 120, MML pp 759-761, RR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 57, MML p 84. Minutes of confirmation or non-confirmation may be altered before promulgation: RP 33, MML p 85. Quashing after promulgation: RR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

I confirm the finding and the sentence of the Court

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

Date 14 Feb 46 (Sgd) "AM WILLAS" Major
/Commanding A/C R Sigs 3 Cdn Inf Div CAOP
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 31, RR Can 576, 577.)

Accused. Date. Signature of Offr.
H77496 Tpr Evers AE 15 Feb 46 "MR BRADLEY" Lt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALED.

FIELD GENERAL COURT-MARTIAL

CPARS (in lieu of AFAS) 40/P & B/1000 4/38B

Convened by Order of Lt Col RL Houston Comd Sigs 3 Cdn Inf dated 30 Jan 45
Div CAOP

ACCUSED.

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

Number. (a) Print R. (b) Appnt, A/R or A/Appmt. Full Christian Names. Surname. Unit.
H77496 Tpr Albert Elmer B MAR EVERS 2/7 Cdn Recce

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Germany on (date(s)) 12 Feb 46 RL

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALED BY PRES OR JA. The schedule referred to throughout is on p 4. Entries do NOT include all relevant form ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CP 455, for notes and instrs in how to record addresses, evidence etc, which notes are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 72, 74, 76, 101, 119, 122.)

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

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 41, 50, RP 105-107. 3. RP 11-12, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.⁽⁴⁾

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.⁽⁵⁾ The Prosecutor informs the Court that accused is (are) fit to be tried by court-martial instead of being dealt with summarily by the CG.⁽⁶⁾

(1. RR Can 537. 2. AA 46(8), RP 60 fn 1. For effect see RR Can 543(c). Delete, if not applicable.)

A5. President to accused: Do you object to _____ as interpreter? Ans no

The interpreter is sworn? Do you object to _____ as shorthand writer? Ans no

(1. RP 72. Delete, if not employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.⁽⁷⁾ President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans no.⁽⁸⁾
(1. RP 110. 2. If no objection, waiting member retires. RP 68(E). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any~~, and Offrs under instr, ~~if any~~, are sworn.⁽⁹⁾ The following are the RL ranks, names and units of the offrs comprising the Court, etc:

President	<u>Major</u>	<u>JA DURE MC</u>	<u>SMAG Highrs</u>
Member	<u>Captain</u>	<u>RE HART</u>	<u>SNS Highrs</u>
Member	<u>Capt</u>	<u>L ASCHIBALD</u>	<u>HLI of C</u>
Judge-Advocate	<u>Capt</u>	<u>R LIVERMORE</u>	<u>3 Inc "B" Cdn JAG</u>
Prosecutor	<u>Lt</u>	<u>RE POTTS</u>	<u>OYSTERBASS</u> <u>2 Ech HQ CAOP</u>
Defending Offr	<u>Lt</u>	<u>JME GAUTHIER</u>	<u>2 Ech HQ CAOP</u>

Questions by President: Is the Prosecutor a lawyer? Ans no. Is the Defending Offr a lawyer? Ans no.⁽¹⁰⁾

(11. RP 26, 27, 108, 111. List of offrs under instr will be returned separately with proceedings for information of Comd Offr.)

(12. If Pres a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See D1 p 2.)

A8. The accused _____ before arraignment make(s) (no) (s) plea.⁽¹¹⁾

(1. If a special plea is made for separate trial on one or more charges (RP 42E, 106), or as to the jurisdiction of the Court (RP 24, 25A, 113), or in bar of trial (RP 26), or as to accused's mental fitness to stand trial (AA 12, RP 57), or by one of several accused charged jointly to be tried separately (RP 15, 71), such plea, the addresses made in support or against the evidence, if any, and finding are recorded per Procs. For forms of record see references in fn 1 to Staff instr. Insert in 48 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.⁽¹²⁾ The accused does (do) not object to any charge.⁽¹³⁾ There is no amendment to be made to the Charge Sheet.⁽¹⁴⁾ The President records the plea in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and see separate copies of CP 486 to record proceedings. 2. RP 22, RP 23. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (retained) considers the Instrs on Procedure after Arraignment at top of p 2. The pro- RL ceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CAOP Bk 1
p 106

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

- I. If pleas to all charges are GUILTY, use Record Form B below.
- II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.
- III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

- (a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)
- (b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instructions as may be appropriate to result of its decision. See MML p 744 Instra (2).

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

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

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

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

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s)⁽³⁾. If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty⁽⁴⁾, or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined⁽⁵⁾, we shall advise you to change your plea to Not Guilty. In the witness for the Prosecution should be examined⁽⁵⁾, and anything you say will not be used in evidence against you after you give your plea. If, however, it appears to the Court that your statement in evidence against you after you give your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.⁽⁶⁾

President to accused: Do you wish to make a statement? Ans. No

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E1 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement (if any) and decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty (or) change(s) thereon (or) is (are) so informed, and the (they) change(s) his (their) plea(s) to ———— charge(s) — Part I of the Schedule is amended accordingly ————

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

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.⁽⁷⁾

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

B5. The Summary of Evidence is marked Ex. 1, initialed and read aloud by the President.⁽⁸⁾

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

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

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

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

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

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.⁽²⁾

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C1. If any plea is changed to Not Guilty, trial thereof proceeds by complying with para D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

(1. RP 39(C), 114, KR Can 355. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

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

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

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Do you intend to call witnesses on your behalf? Ans. Are they witnesses as to character only? Ans.

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

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

(1. RP 114, 115, 116. For procedure see Notes on book of Convening Order, CF 95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes address, statement, evidence and any summing up by the JA under RP 42, 103(e).)

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

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.⁽³⁾ Or, the President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.⁽⁴⁾

(1. AA 54(b) (5), RP 45, 120(A). 2. AA 54(b), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

Ans. No

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

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

(1. MFB 155 or MFB 294. 2. M/M A. 3. RP 46, KR Can 138. If above documents not produced, see RP 46 fn 1 para 7.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?⁽¹⁾ Ans. Yes through my Defending Officer

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

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.⁽²⁾

(1. AA 54(b), RP 120(A).)

E5. The Court considers the sentence.⁽¹⁾ The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA. 2007

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 136, 182, RP 46-50, 68, 118, 119(A), KR Can 206, 230, 563-566, Overseas RO 209, 2122, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 504. 2. RP 30. As to release from arrest by Convening Officer see KR Can 547. As to assembly and disposal of record after trial see notes on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Commanding Officer, The 1st Bn
The 1st Bn, The 1st Div, The 1st Div
The 1st Bn, The 1st Div, The 1st Div

In the field,
30 Jan 45

TO BE LIVED BY FIELD GENERAL COURT MARTIAL

John J. ...
Lt Colonel, The 1st Bn
2/1 Jan 45

In the field, in Germany,
30 Jan 45

at ... on 8 Nov 45 ...
himself without leave ...
7 hrs.

It is that he

WESTINGHOUSE ELECTRIC COMPANY

WESTINGHOUSE ELECTRIC COMPANY
11111

The accused, ...
soldier of the Canadian Army Overseas, is charged with
when on duty ...

WESTINGHOUSE ELECTRIC COMPANY

WESTINGHOUSE ELECTRIC COMPANY

FIELD GENERAL COURT-MARTIAL

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

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 106. As to two or more accused charged jointly see RP 15, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apmnt, A/R or A/Apmt, if any, see AA 182, 183, fn, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apmnt, A/R or A/Apmt	Full Christian Name.	Surname.	Unit.
H. 77496	Ipr		Albert Elner	2726	2/7 Cdn Recce Regt.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 20/05/50 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

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

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

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

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

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

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

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

PRESIDENT.

Major	J. A. DUNE	50 & 6 Highers.
<small>(Rank)</small>	<small>(Must be named. RP 106.)</small>	<small>(Unit)</small>

MEMBERS.

Captain	E. E. Hart	5th Co Highers.
<small>(Rank)</small>	<small>(Named or detailed. RP 106.)</small>	<small>(Unit)</small>
Captain	J. Archibald	1st of C
<small>(Rank)</small>	<small>(Named or detailed. RP 106.)</small>	<small>(Unit)</small>

WAITING MEMBER.

Lieut	F. A. Burns	50 & 6 Highers.
<small>(Rank)</small>	<small>(Named or detailed, if any. RP 106.)</small>	<small>(Unit)</small>

JUDGE-ADVOCATE.

Captain	S. Munnery	1st Lt 'B' (C) Coy 280 Coyment
<small>(Rank)</small>	<small>(Must be named, if any. RP 106.)</small>	<small>(Unit)</small>

On Active Service in the Pd

in	Germany	Lt-Col
<small>(Country)</small>	<small>(Signed personally. RP 105 (r 2). [H. L. Munro])</small>	<small>(Rank)</small>

Date	30 Jan 50	Commanding 2726 Cdn Inf Div 105th Convening Officer.
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CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

"JAG"
Medical Officers' Certificate
F.R. (Can) para 597.

I certify that I have this morning examined No. H.77496 for Sever AS
of 2/7 Cdn Recce Regt ALY BEACH CAMP and in my opinion he is fit
to undergo trial by Court Martial.

In the Field,
Germany

Date 12 Feb 48

Sgt "Malcolm L. Barley" Capt.
(Medical Officer)

OFFICERS UNDER INSTRUCTION

Capt. R.R. Middlemass, HQ 2nd Cdn CASF

Lieut. J.A. Burns CD & 2 Higher

Lieut. R.A. Beardon, 3 Infr 3 Cdn JAG Overseas.

Plea of Mitigation
Trooper Albert Elmer Evers, FUGA.

Gentlemen of the court,

Here we are confronted with a very sad case, ASL.

So need to stress the point that the accused pleaded guilty to the charge since in his mind he definitely realized the stupidity of such an act, and in that he did wrong and is ready to pay for his foolishness. As most of our young soldiers, he has a weakness for travelling and look up the unknown. So this is the way it all started. Being here on the continent he heard of Paris this city of millionaires, he was attracted, like many others were before he came, after all it's every boy's privilege to possess such an ideal as "I want to go to Paris". Soon or later this had to be realized and one morning, most unfortunately, the accused found himself in that very city where pleasures and attractions are to no end. He did exactly what everybody else would do, he had a hollowness of a good time, remorse of conscience that he had done very wrong he has, and full realization of failure to good conduct. But in spite of all this, he is still very uncertain on what should be done as to his future. Another factor has come in, another obstacle has surged, and this delays his surrender. It's fear, yes gentlemen, fear of the punishment that would be meting out if give in he does. But the accused has been a soldier for too long, that remorse of conscience is so strong, that sense of duty finally triumphs and he surrenders voluntarily. Yes gentlemen, wasn't apprehended by our well known MP's, no, he strictly, definitely, voluntarily surrendered. Then this war, to come to such a conclusion must still have that willingness of soldiering once more if the chance, the opportunity is given to him. Gentlemen, everybody knows that the war is over, yes, and we can add almost as surely as the Maple Leaf did, CASR is very likely to fall up in a very near future. Such is the case, everybody's going home, but the accused, gentlemen, has he got the same prospects! He quite realizes that a punishment must follow a crime.

In spite of his weakness of character this war, what I say, is a soldier, and he's got the proof. He's a volunteer, he joined up in '41, that's five long years in the army, five long years in the service. He has nothing to do with MIA personnel, he has fought 3 months of war, 17 days in France to be exact, from D-Day plus 3 to the end of August, and as many others volunteered for the Pacific, and when mobilization ceased in that theatre, he CDF to come.

And this, gentlemen, complete the sad story of an ASL case, of a man who definitely realized his mistake, and since there has to be a sentence, I beg you to be as lenient as possible, and to take into consideration war services and various facts that have been pointed out in this plea of mitigation.

"J. R. E. Genthner" Lt.
Def. Coun.

Summary of Evidence in the case of H.77496 Tpr SVRS, A.E.. "A" Coy, 2/7 Cdn Recce Regt, CACF, charged with absenting himself from 2300 hrs 8 Nov 45 to 0300 hrs 21 Dec 45. (Total time absent 42 days, 4 hrs).

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

FIRST WITNESS: Capt H.E.Theobald, M.C. Adjnt, 2/7 Cdn Recce Regt, CACF, swears, states:-

I am the Adjnt of 2/7 Cdn Recce Regt, CACF. The CO of the Regt directed that a Court of Enquiry be convened under R.125. After Tpr Svrs had been absent from the Unit for 21 clear days. This court convened on the 11 Dec 45 and submitted on the 13 day of Dec by the President was approved by the CO and declaration of said court was duly entered. In Regimental Books held in my custody. Certified true copy is now submitted as evidence. The accused declines to cross-examine this witness.

"H.E.Theobald" Capt.

The certified true copy of the declaration of the court of Enquiry has been read to the accused and attached hereto as Exhibit "A".

SECOND WITNESS: P.66316 Sgt Wynnot, F.N. Sgt, 2/7 Cdn Recce Regt, CACF, swears, states:-

On Nov 8, at 2300 hrs the Troop orderly Cpl informed me that Tpr Svrs A.E. was absent from his quarters. I proceeded to his quarters and found that the bed allocated to him was empty. On the next parade, which was at 0815 hrs on 9 Nov 45, I again checked the roll call and Tpr Svrs failed to answer his name. I proceeded to call his name on each parade until I was advised by CSM Britton that he was MIA the squadron.

The accused declines to cross-examine this witness.

"F.N.Wynnot" Sgt.

THIRD WITNESS: Capt F.R.Lloggie, Signale Officer, 2/7 Cdn Recce Regt, CACF, swears, states:-

On 20 Dec 45 I was writing Adjnt 2/7 Cdn Recce Regt and received a message originating at HQ 1st Police Headquarters, Paris stating that H.77496 Tpr Svrs A.E. had surrendered himself to them and asking that escort be arranged to bring him back to the Regt. At that time Tpr Svrs had been MIA the Regt as a deserter. It was necessary to get a ruling from Div HQ and we were instructed to send one MCC and one tpr to Paris to pick up Tpr Svrs. Lt Sgt Links and one tpr were despatched from "C" Coy of this Regt to Paris, where they picked up Tpr Svrs and upon their return Lt Sgt Links handed in the certificate from the DAPT, Paris stating the date and time that Tpr Svrs surrendered himself to them.

The accused declines to cross-examine this witness.

"F.R.Lloggie" Capt.

The certificate in accordance with R.1277 of 10 Apr 45 mentioned above is attached hereto as Exhibit "B".

The accused was cautioned as follows:-

- Q. Do you wish to make any statement or to give evidence on oath but are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.
- A. I do not want to make any statement.
- Q. Do you wish to call any witnesses?
- A. No sir.

I certify that the foregoing Summary of Evidence, consisting of three pages was taken down by me in the presence of the accused and that R.F.(a)(i)(f) and (g)(13) have been complied with.

In the Field,
18 Jan 46

"A.C.Beggs" Lt. 2/7 Cdn Recce Regt
CACF.

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 11th day of December 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H.77496 Trooper EVERE, A.E. 2/7 Cdn Recce Regt (17 BIRCH) CACF.

DECLARATION

The Court declares that No. H77496 Tpr Evere, A.E. 2/7 Cdn Recce Regt CACF, illegally absented himself without leave at Bunde, Germany at 2300 hours on the 8th day of November 1945, that he is still so absent, and that on the 6th day of December he was deficient, and that he is still deficient of the following articles:-

ARTICLES	VALUE			ARTICLES	VALUE
	£	S	D		
2 Battle dress, blouse	2	18	2		
1 Boots ankle pra	1	6	-		
1 Shirts angola		9	1		
1 Trousers battle dress	1	9	3½		
1 Brush shoe polishing		1	3		
2 Chevrons service sets			14		
2 Clasp silver, leaf			2		
1 Ribbon silk CCM			4		
3 Blankets	2	1	3		
1 Greatcoat	2	11	8		
TOTAL	12	16	11½		
Net total	8	2	8½		

Signed at In the FI in Germany this 13 day of Dec 1945.

"L.E. Johnson" Capt President
 "S.E. Bishop" Lt Member
 "J.R. Firth" Lt Member

Signature of Commanding Officer "J.E. Warner" Lt-Col

Certified true copy "H.E. Theobald" Capt.

(H.E. Theobald) Capt.

Signature of Officer having custody of original record.

In lieu of:
 MFB. 375
 AFB. 135

CERTIFICATE IN ACCORDANCE WITH FC 3727 of 10 Aug 42

I certify that No. 2,77496 Rank Tpr

Name WYSE, A.E. Unit 2/7 Recce Regt (17 BRCH) CACW

surrendered himself at Paris France, at 0300 hrs on 21 Dec 41.

and that at the time of his arrest he was wearing (military uniform)

Signature of Provost-Marshal, Assistance Provost-Marshal or other
Officer or the Commanding Officer of the portion of His Majesty's Forces or
the Officer, Warrant-Officer, or non-commissioned Officer in charge of the
Detachment of the Canadian Provost Corps, Canadian Army, into whose custody
the above named person was taken on arrest.

"H.E. Gateson"
(H.E. Gateson) Capt
CACW
Gen Hill Staff Paris.

S/7 CDR ROCHE REGT (17 BRACH) CACF.

This is to state that I have this date received one copy of the Charge Sheet and one copy of the Summary of Evidence re my forthcoming trial by Court Martial.

23 Jan 46

"A.E.Evers"
(A.E.Evers) Tpr
S/7 Cdr Roche Regt CACF

STATEMENT OF FACTS AND PARTICULARS OF SERVICE OF WARRANT

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

Number Rank Name Regiment for at the case may be
 477490 1pr STAFF Albert Blair 2/7 CWS REGT AMN.

1. The following is a fair and true summary of the action in the Field Court-Martial of the accused; exclusive of convictions by a Court-Martial.

For	AA Sec 2(a)	1	times.
	AA Sec 22	2	
For	AA Sec 15(1)	6	times.
	AA Sec 15(2)	1	
For	AA Sec 23	2	times.

Date of first entry in Field Court-Martial 23 Sep 45

Date of last entry in Field Court-Martial 30 Sep 45

- Previous convictions of the accused by a Court-Martial or a civil court are set out in the schedule below.
- The accused at the present time is at 45 JVA 4 2nd sentence beginning on the 2nd day of June 45. (Strike out if not applicable)
- The accused has been awaiting trial on the charges charged for 31 days in civil custody; and for 34 days in military custody, i.e., 31 days in open arrest, 3 days in close arrest, of which 4 days were spent in hospital.
- The present age of the accused is 45 yrs 4 mos.
- The date of his enlistment is 20 Sep 41.
- The service unit the accused is allotted to is 2/7 CWS REGT.
- The accused is in possession of no decorations. (Delete military decorations if any)
- (Delete matter of sentence etc. if not applicable)

SUMMARY OF SENTENCES BY A COURT-MARTIAL OR FIELD COURT

Description of Court	Date & Place of Trial	Charges	Sentence of the Court
FGE	20 Sep 45 Field	AA Sec 22 when in uniform weeping. AA Sec 15(1) and 1 day 5 hrs 5 min.	140 days det 1st 140 days 7 mos of pay. Strip of 4.10.
FGE	27 Nov 44 Field	AA Sec 15(a) AA Sec 15(1) 11 12 days 15 hrs 5 min. AA Sec 15(1) 11 5 days 5 hrs 20 min.	1 yr det. sentence suspended for total 400 days pay.

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

Witness this 23 day of Sep 1945 For the "R.H. Thomas" Capt.
 (R.H. Thomas) Capt & Adj.

No. H. 77496 Name SWANSqn., Battery,
or Company

D Corps

12th (Gen) Armd Car Bde, SAC

Date of
enlistment

30 Jun 41

G.C.
BadgesService or
Proficiency Pay

M.F.M. 6

(A.F. H.122) 20 1,
40/P & B.136 (2065)Date of last entry in
Company Conduct Sheet

Albert Elmer

No. and date
of last drunk

20 Dec 41

N41

Period not reckoning towards
freedom from extra fine

Sheet No. 1

Signature O.C.
Company, etc.

Character

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
				Previous sheet destroyed 3-1-41					
Shilo Camp	2-9-41	Tpr	(1)	AWL from 1800 hrs 2.9.41 to 0200 hrs 3.9.41	Documentary	21 days detention.	2.10.41	Sgt H.S. Robinson	Forfeiture 24 days pay Forfeiture court expense 7s. 6d.
	6.9.41	Tpr	(2)	AWL from 6.9.41 to 1655 hrs 16.9.41					
	23.9.41	Tpr	(3)	AWL from 23.9.41 to 2100 hrs 25.9.41					
	6.9.41	Tpr	(4)	When in lawful custody escaping	Sgt N41	28 days det.	22.12.41	Sgt H.S. Robinson	Forfeiture 1 days pay under P.W.I.
Outer Point	20.12.41			AWL from 2130 hrs 20.12.41 until 1030 hrs 21.12.41 AA Sec.					

(P.T.S.)

Place	Date of offence	Rank	Class of discipline	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Rennie Man	22.5.42	Tpr		AWL absented himself from the troop train 0100 hrs 23 May 42 and remained absent until surrender to J at Winnipeg Manitoba at 1700 hrs 26 May 42 AA Sec 15(1)	Documentary Cpl. Horvath H. 30039	14 days GB A.S. pay stoppage for cost of transportation 53.47	4.5.42	P.H.E. Coupland Lt-col	Forfeits 4 days pay
Debert Camp	25.7.42	Tpr		Failure to appear the place of parade appointed by his Cos. Officer AI Sec 15(2)	Doc McCrean	144 hrs detention	29.7.42	P.H.E. Coupland Lt-col	
In the Field	26.11.42	Tpr		AWL 0600 26.11.42 to 1200 hrs 26.11.42 neglected to get pass stamped by ICD	Documentary Sgt Bestable	14 days FP	26.11.42	LA-col J.S. in action	15 days pay
In the Field	20.4.43	Tpr		Neglect to the irradia etc Did not properly clean his rifle.	Sgt Hines	7 days GB	22.4.43	Major	

No. 77496 Name WVMS

Sqn., Battery, or Company

18 000 ERPT C REGT (12D) GAC
Corps

Date of last entry in Company Conduct Sheet

Albert Elger

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Date of enlistment

30 JUN 43

G.C.

Badges

Service or Proficiency Pay

M.F.M. 6

(A.F. 2, 1951)
40/P & 3, 133 (1965)

Sheet No. 2

Signature O.C.
Company, etc.

Character

Place	Date of offence	Rank	Case of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Character	Remarks
In the Field	30 Jul 43	Trp		WOAS AWL from 2300 hrs 30 JUL 43 until placed under close arrest at 0145 hrs 13 Aug 43.	Sgt Keele Documentary L/Cpl Kelly L/Cpl McGee	28 days FF Total Perf 28 days pay & 22.5.5	19 Aug 43	J.A. Rabut Maj		Perf 28 days pay under FR I 142(2)(b) Perf 14 days pay under FM 149(1) (a) Perf 8 days pay under FR I 49(1)(a)(1) Storage of pay 22.5.5 under FR I 142(b)

(PTC)

Place	Date of offense	Rank	Cases of drunkenness	OFFENSE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	12 Oct 43	Tpr	AA 588 AD	(1) BCAS ACT TO THE PREJUDICE ETC did spit on the floor of the hut in which he was quartered.	L/C Muir L/C Symington	28 days FT	14 Oct 43	Lt-col Roberts	28 day pay forf under PMAI 149(2)
				(2) BCAS AA SEC 9(a) DISOBEYING A LAWFUL COMMAND GIVEN BY SUPERIOR OFFICER, refused to wash the floor of the hut in which he was quartered when ordered to do so.	L/C Muir L/C Symington				
In the Field	20 Oct 43	Tpr	AA 22	when in confinement escaping AA 15(1) sub para 1800 hrs 20 Oct 43 to 2305 hrs 24 Oct 43 (4 days 5 hrs, 5 min) Inmate arrested from 1400 hrs 9 Nov 43 to date of trial.	Documentary	120 days detn Four 12 days pay under PMAI, 149(1)(b)	25 Nov 43	FCOM	Forf 5 days payFR & I 149(1)(a) Forf 15 days pay under PMAI, 149(1)(a)(1) Stop of pay of 22.20.3 under PMAI, 172(8)

No. H. 77496 Name EVANS

Sqn., Battery,
or Company

Corps CAC

Date of
enlistmentG.C.
BadgeService or
Proficiency Pay

M.F.M. 6

(A.F. B. 137)
40/P & 75156 (2065)Date of last entry in
Company Conduct Sheet

NA

No. and date
of last drunk

NA

Period not reckoning towards
freedom from extra fine

Sheet No. 3

Signature G.C.
Company, etc.

Character

Place	Date of offence	Rank	Class of drunken- ness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order depend- ing upon trial	By whom awarded	Remarks
Field	19 Jun 44	Tpr		Sec 15(1) AA WOA. AWL from 0230 hrs 19 Jun 44 to 0145 hrs 24 Jun 44 (2 days 23 hrs 45 min).	Sgt Reddle " Ussin " Gourlay	28 days FF 28 days pay	23 Jun 44	Lt-col Adj. Maj.	Part 28 days pay F.M.I. 149(1)b Part 3 days pay F.M.I. 149(1)(a)
Field	28 Nov 44	Tpr		On 24 Jan 45 by FGM awarded one years detn for:- (1) two charges under A1 15(1) and (11) AA 13(4) AWL from 2430 hrs 27 Nov to 1335 hrs 12 Dec 44 (Absent 14 days 15 hrs 5 mins) and AWL from 1740 hrs 15 Dec 44 to 0300 hrs Dec 44, (Absent 5 days 0 hrs 20 mins) in close arrest from 1335 hrs 12 Dec 44 to 1740 hrs 15 Dec 44 and from 0300 hrs 21 Dec to date of trial.	Documentary	One year detn suspended 21 Jun 45	24 Jan 45	FGM	Part 24 d.p. F.M.I. 149(1)(a) 37 d.p. F.M.I. 149(1)(c)(1) 365 d.p. F.M.I. 149(1)(b) F.M.I. Part 223 days detn.
									This entry copied from 2 sub letter 55/20/10ArmdR/1 (AM) d. 30 Aug 45.

(P.T.O.)

Place	Date of offense	Rank	Character of offense	OFFENSE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	10-8-45	Tpr		RCAS AA Sec 15(1) AWL from 1400 hrs 10 Aug 45 to 1320 hrs 18 Aug 45 [Absent: 7 days 23 hrs 20 mins] Held in close arrest from 1320 hrs 18 Aug 45.	Sgt Campbell D.J. Cpl Bourr R.V.	28 days detn		Lt-col E.H. Wilson DCO, SD	Forf 28 days pay FW-I, 149(1)(b) 8 days pay FW-I 149(1)(a). 17 days pay FW-I, 149 (1)(c)(11).
				CERTIFIED TRUE COPY OF THE REGIMENTAL BOOK IN MY CUSTODY.					
				"R.E.Theobald" Capt. (R.E.Theobald) Capt & Adjt. 2/7 Sdn Messes Regt (17 DIV) CASF. 23 Jan 46					

SA-90

Spec. Evers, A.E. *Handwritten*

Proceeding
to Canada (DND) by AG SA

56-101

Synn. Lusson, B.

PART I. PLEAD, FINDING(S) AND SENTENCE. SCHEDULE.

Accused: L-65544 STEPHEN BEYER EVENSON 4 Cdn Army Day 21st, 21st and 22nd
 Charge: DISCIPLINARY OFFENSE

Insert "offensive" where applicable	Plea	Finding	Specify for use as required for further charges, record charges jointly, special findings, etc.	
			1st	2nd
1st AISCID	GUILTY	GUILTY		
2nd				
3rd				
4th				
5th				
6th				

PART II. MINUTE WHERE CONFIRMATION RESERVED. (M 54(5), M 120(1), M 2, M 7(6))

Date announced: 28 June 1954
 (Signed) R. G. Wood, President

PART III. DECISION OF CONFIRMING OFFER ON FINDING(S) AND SENTENCE. (M 54(5), M 120(1), M 2, M 7(6))

Commuting: (Signed) R. G. Wood, President

PART IV. PROMULGATED AND EXTRACTS TAKEN. (M 54(5), M 120(1), M 2, M 7(6))

Date: 1 June 54
 Commuting: (Signed) G. B. H. Gossling, President

ALL DELETIONS AND ALTERATIONS WILL BE INITIALED.

W. W. G. Wood
 President

FIELD GENERAL COURT-MARTIAL

RECORDED AT CHICAGO IN ADV 160, 5 C 101

RECEIVED BY CHIEF CLERK G.S.N. GO-VIETNAM

10 APR 1954
 ACCUSED: 26 FEB 1954

PROCEEDINGS REVIEWED: (Signed) R. G. Wood, President

RECORD FORM A—OPENING PROCEEDINGS AND ARRANGEMENT.

President: R. G. Wood
 Member: G. B. H. Gossling
 Judge-Advocate: R. G. Wood
 Prosecutor: G. B. H. Gossling
 Defense Counsel: R. G. Wood
 Secretary: R. G. Wood

PROCEEDINGS REVIEWED
 REVIEWED BY: R. G. Wood, President

RECORD FORM A—OPENING PROCEEDINGS OF TRIAL.

PROCEEDINGS AND ARRANGEMENT.

The Court is composed of the following members:
 President: R. G. Wood
 Member: G. B. H. Gossling
 Judge-Advocate: R. G. Wood
 Prosecutor: G. B. H. Gossling
 Defense Counsel: R. G. Wood
 Secretary: R. G. Wood

The Court is held in accordance with the provisions of the Act in force at the date of the trial.

The Court is held in accordance with the provisions of the Act in force at the date of the trial.

The Court is held in accordance with the provisions of the Act in force at the date of the trial.

SCHEDULE.

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

Accused: L-65548 Sigm Berger EVENSON 4 Cdn Armd Div Sigs, att 1 Cdn
Disciplinary Centre

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

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 48) in 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in last of Alt see RP 44 in 6.)

AL present under sentence for beginning on (date)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B255 or AF B296.)

Time in confinement awaiting present trial—a total of 28 days, of which 11 days were spent in hospital.
(1. See RP 46(A) in 2. Information should be found on MF B255 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
Sixteen months imprisonment
Date awarded: 28 Feb 45
(Sgd) [Signature] President. (RP 45, 50.)

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

Date: _____ (Sgd) _____ Commanding

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

(For duties and powers see AA 54, 57, RP 37(D) in 4, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittal require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 33, MML p 65. Quashing after promulgation: KR Con 572. Duties and powers of reviewing offrs: AA 57, 57A, RP 33A, 54. The Confirming Offr must sign here personally. AA 172 in 1.)

My decision on the finding(s) and sentence set forth in Part I is:
Imprisonment
I direct that the accused be not committed to prison or detention house until further orders.
(1. AA 52A. Delete if not used.)
(Sgd) [Signature]
Date: 1 MAR 45 Commanding (G.S.N. Gostling) Brigadier,
2 Cdn Base Rft Ctr Confirming Officer

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

Accused: _____ Date: _____ Signature of Offr: _____

L-65548 Sigm Berger EVENSON, B 1 MAR 45
CR# 232
d/8 MAR 45
ALL DELETIONS AND ALTERATIONS WILL BE INITIALED.

RECORDED AT CMHQ IN AD 160, 5 C-101
FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig G.S.N. Gostling ED Comd 2 CBRG dated 26 Feb 45
ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed (b) appt, A/R or A/Appt, if any, see AA 82, 183, (in, KR Con 308, 328, 330.)
Number: (a) Prmt R. (b) Appt, A/R or A/Appt. Full Christian Names: Berger Surname: EVENSON 4 Cdn Armd Div Sigs at Disciplinary Centre

L-65548 Sigm Berger EVENSON 4 Cdn Armd Div Sigs at Disciplinary Centre
PROCEEDINGS REVIEWED
17 Apr 45
PROCEEDINGS OF TRIAL.
on (date(s)) 28 Feb 45
REVIEWED BY OFFICER IN CHARGE BRANCH BRANCH CMHQ BELGIUM

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 25/09

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

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALED BY PRES OR JA.) The Schedule referred to throughout is on p 4. Customs do NOT include all relevant from ROs. For guidance on procedure when a variation in this form occurs, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 855, for auth and notes on how to record addresses, evidence, etc. which notes are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 62-70, 73, 74, 84, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto. The Court is satisfied that it is properly convened and constituted, accused is (are) amenable to military law, and each charge discloses an offence.
(1. As to use of Summary of Evidence see RP 107 in 6. 2. AA 46, 50, RP 105-107. 3. RP 11-13, 23, 34.)

A3. The Court is opened. The accused is (are) brought before the Court. At 10:30 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.
(1. KR Con 557. 2. AA 46(B), RP 80 in 1. For effect see KR Con 543(c). Delete, if not applicable.)

A5. The Convening Order and names of the President and Members of the Court are read to the accused.
(1. RP 72. Delete, if not employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans: No
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

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

President	<u>[Signature]</u>	<u>Brigadier</u>	<u>13 CBR Bn</u>
Member	<u>[Signature]</u>	<u>CIC</u>	<u>13 CBR Bn</u>
Member	<u>[Signature]</u>	<u>CIC</u>	<u>10 CBR Bn</u>
Judge-Advocate	<u>[Signature]</u>	<u>CIC</u>	<u>10 CBR Bn</u>
Prosecutor	<u>[Signature]</u>	<u>CIC</u>	<u>10 CBR Bn</u>
Defending Offr	<u>[Signature]</u>	<u>CIC</u>	<u>10 CBR Bn</u>

Questions by President: Is the Prosecutor a lawyer? Ans: No. Is the Defending Offr a lawyer? Ans: No.
(1. RP 26, 27, 108. (2). List of offrs under instr will be returned separately with proceedings the information of Case Offr.)
(2. If Pres a lawyer and Def Offr not, accused is entitled to an adjournment when RP 85 (B) and 26, 27 were not followed. See D1 p 3.)

A8. The accused L-65548 Sigm Berger EVENSON before arraignment makes (s) (a) plea (1)
(1. If a special plea is made for submission on one or more charges (RP 120, 120B), or as to the production of the Court (RP 24, 33A, 120, or in last of instr (RP 26), or as to accused's consent to proceed (AA 15, RP 27), or by one of several accused charged jointly to be tried separately (RP 16, 71), each plea, the circumstances which support or oppose the evidence, if any, and finding are recorded per Notes. For forms of record see information in this in last cited. Item is RP 108 and more of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the Charge Sheet(s). The President records the plea in Part I of the Schedule.
(1. RP 31, 102. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 42; when more than one accused see RP 108 separately see RP 71(C), and use separate copies of CF 856 to record proceedings. 2. RP 22, RP 33. If otherwise, notes and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 333.
PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS
2 CBRG U/1 R 6 C

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc. see RP 75-79, 80, 116; use of Summary of Evidence at Trial see RP 17(B) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.

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

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

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)⁽¹⁾, and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.⁽²⁾
(1. RP 35 fn 3. 2. MML p 34 para 47.)

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

President to accused: Do you wish to make a statement? Ans Yes
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(D) fn 3 para 3. MML p 34 para 47. 4. See para E3 of Record Form E.
1. Statement, if any, recorded per Notes.)

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

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.⁽²⁾
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

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

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

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

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

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.⁽²⁾
(1. Under B3 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereof proceeds by complying with para 3 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Put here Lower Sheets of Record.

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

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

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

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

D4. The Prosecution is closed.⁽¹⁾ The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).⁽²⁾ The Court is closed, and considers the submission.⁽³⁾ The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and the accused is (are) found Not Guilty on the latter charge(s).⁽⁴⁾

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. RP 60(C), 114, 115.)

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Do you intend to call witnesses on your behalf?

Ans Are they witnesses as to character only? Ans Yes
(1. RP 115. 2. RP 40(A) see 80(D). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.⁽¹⁾
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, Cf 895. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 84(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).⁽²⁾ The finding(s) of the Court is (are) recorded in Part I of the Schedule.⁽³⁾ The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.⁽¹⁾ Or, the President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.⁽²⁾
(1. AA 54(3) (5), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service⁽¹⁾, and certified true copy (copies) of Conduct Sheet(s)⁽²⁾, purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex E respectively.⁽³⁾
(1. MPE 252 or MPE 296. 2. MPE 1. 3. RP 46, KR Can 558. If these documents not produced, see RP 46 fn 1 para 1.)

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

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.⁽²⁾
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.⁽³⁾ The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.⁽⁴⁾

(1. When several accused cited separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and 45, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 88, 118, 119(A), KR Can 528, 530, 563-565, Overseas RD 228, 232, 233, MML p 80, 727-739. As to sentences imposed for civil offences by the law of England see AA 41(C), MML p 130. When accused already under sentence of imprisonment or detention see AA 66, 70, 68(1), KR Can 54. 2. RP 30. As to release from arrest by Defending Offr see KR Can 547. As to assembly and disposal of record after trial see notes on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

8

CHARGE SHEET

The accused, L-25548 Sigam Berger EVANSON,
4th Cdn Army Div Signals, attached to 1 Cdn Disciplinary
Centre, a soldier of the Canadian Army Overseas, is
charged with:-

FIRST CHARGE

Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT
LEAVE

In that he

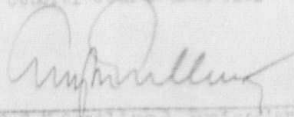
In the Field, in ENGLAND absented himself without leave
from 2359 hrs 24 Oct 1944 until 2100 hrs 5 Feb 45.
(Spent 103 days 21 hrs)

In the Field
27 Feb 45


R. O. Wood) Lt-Col
OC 1 Cdn Disciplinary Centre

To be tried by Field General Court-Martial

In the Field
24 Feb 45


G. E. Costling) Brigadier
Comd
1 Cdn Army Div HQ

FIELD GENERAL COURT-MARTIAL

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

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/Rank or A/Appmt, if any, see AA 182, 183, fin, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
L-65548	Signan		Berger	EVENSON	4 CdnArmd Div Sigs att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 26 Feb 45 endorsed by me, ~~for by an offr of my staff for me~~, "To be tried by Field General Court-Martial".

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

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

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

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

5. I also appoint as Judge-Advocate ~~the offr mentioned hereunder~~.

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

PRESIDENT.

Major	<u>jc Lovat Drew</u>	RCE	8 CORPS
(Rank)	(Must be named. RP 106.)		(Unit.)

MEMBERS.

Captain	to be detailed by OG 13 CBR Bn	13 CBR Bn	
(Rank)	(Named or detailed. RP 106.)	(Unit.)	
Lieutenant	to be detailed by OG 10 CBR Bn	10 CBR Bn	
(Rank)	(Named or detailed. RP 106.)	(Unit.)	

WAITING MEMBER.

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

(Rank)	(Must be named, if any. RP 106.)	(Unit.)	
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On Active Service in the Fd

in BELGIUM
(Country)

Date: 26 Feb 45

<u>G. S. H. Gostling</u>	Brigadier
(Signed personally. RP 105 (a) 2.)	(Rank.)
(G. S. H. Gostling)	
Commanding 2 Cdn Base Rft Gp	Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

29

MEDICAL OFFICERS CERTIFICATE

(AR(Occ) Para 597)
(CMR, TL 173)

I certify that I have this day examined L 65648
(No.)

SIGMAN EVENSON B and in my opinion he is
(Rank) (Rank)

fit to undergo trial by Court-Martial.
(unit)

Station USCAGC San Antonio

Date 28 Feb 45

W. H. Jones Capt (Med)
(unit) 1st Div C.

(1)
EXHIBIT C

Summary of Evidence in the case of I-65548 Sigman
Berger EVENSON, 4th Cdn Arm'd Div Signals, attached to
1 Cdn Disciplinary Centre, a soldier of the Canadian Army
Overseas.

Charge - Absence without leave.

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

The following documents are read over to the accused,
marked as Exhibits and are attached to the proceedings.

Exhibit "A" - True copy of Pt II Order No 8 dated
19 Feb 45.

Exhibit "B" - Certificate of Surrender dated 5 Feb 45.

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

A I have nothing to say.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence
consisting of one page was taken down by me in the
presence of the accused and that RF4(G) (D) (E)
(F) and (G) have been complied with.

W. H. S. G. Ford
(W. H. S. G. Ford) Capt

Officer detailed to take Summary of Evidence.

Dated in the Field
24 Feb 45

*Whitfield A.
W. S. Youn gcn York
Captain
P. J. Whitfield capt
AG*

Last Order
No 7
17 FEB 45

4 CANADIAN ARMORED DIVISIONAL SIGNALS
Part II Orders Issued by
CANADIAN SECTION 2nd ECHELON HEADQUARTERS
21 ARMY GROUP

No 8
19 FEB 45

WA" OFFICERS
P. I. I.

"O" OTHER RANKS

- 1 ABSENT WITHOUT LEAVE
(a) AWL from 2300 hrs 24 OCT 44 until apprehended at 2100 hrs 8 FEB 45
166548 Sgmn EVERTSON B

- 2 SEMI-ON DECREASE
(a) Amendment - Part II Order No 48 para 10(a) of 3 NOV 44 insofar as it concerns the
W. S. in case listed
166548 Sgmn EVERTSON B "10"0"

W. S. Youn
(W. S. YOU) Lt
for Officer IC
CANADIAN SECTION 2nd ECHELON HEADQUARTERS
21 ARMY GROUP

CERTIFICATE OF SURRENDER UNDER ARMY ACT
SECTION 163 (1) (3)

I, Lt. J. BLENKHARN certify that No. W 55546 Rank 8844 Capt
Name EVENSON B. of (Unit) 4 Cdn. Div. Signals.
surrendered himself to No. 7687187 Rank Sgt. Name HIGHAM T.
of (Unit) 120 Provost Coy. C.M. Police. at BRUSSELS
at 20.30 hrs on 5th Feb. 45, as a ~~prisoner~~ (or absentee without leave)
He was dressed in Uniform
~~XXXX CASUALTY~~

Signature J. Blenkarn Lt.
Officer Commanding

Date 5th Feb. 45

Unit
COMMANDING 120 PROVOST COY. G.M.C
CORPS OF MILITARY POLICE

- NOTE
1. If the surrender was made to an O.C., this certificate MUST be signed personally by the Commanding Officer.
 2. If the surrender was made to an officer, this certificate may be signed either that officer or by his Commanding Officer.
 3. In no circumstances may it be signed by one officer 'for' another, or by anyone who does not hold commissioned rank.
 4. In all circumstances should the place of surrender be described as 'In the Field'. The actual place of surrender should be stated, or if difficulty is experienced in describing the place, the map reference should be given.

EXHIBIT D

ARMY FORM B.296 (WAIG.)

Statement as to Character and Particulars of Service of Accused.

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

Number.	Rank.	Name.	Regiment (or as the case may be).
L 65548	SIGMN	EVENSON B.	8193 ACDN ARMD DIV.

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

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

For <u>A A Sec 40</u>	<u>ONE</u> times.
For <u>A A Sec 15 (1)</u>	<u>TWO</u> times.
For _____	_____ times.
For _____	_____ times.

Date of first entry in Field Conduct Sheet _____

Date of last entry in Field Conduct Sheet _____

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

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

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for 1973 days in military custody, i.e., _____ days in open arrest, 1973 days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 27 yrs. 4 mos.

6. The date of his _____ attestation is 1 MAR 42.
calling up for military service

7. The service which the accused is allowed to reckon is _____

8. The accused is in possession of: C V S M with CLASP.

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

In the substantive rank of _____

In the war substantive rank of _____

In the acting rank of _____

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

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

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
<div style="position: absolute; top: 0; left: 0; width: 100%; height: 100%; border-left: 1px solid black; border-right: 1px solid black; border-bottom: 1px solid black;"></div>				

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

Signed this 24th

day of Feb 45

[Signature]
Admin. Offr.

1 Cdn Disciplinary Centre

8

LIST OF WITNESSES

N/A

LIST OF EXHIBITS

True copy of Pt II Order No 8 dated 19 Feb 45 "a"
Certificate of Surrender dated 5 Feb 45 "b"

I, L-25548 Signa EVENSEN B hereby certify that I
have received one (1) copy of charge sheet and
one (1) copy of Summary of Evidence free of charge
on 24 February 1945

L. Evensen
L-25548 Signa EVENSEN B

42R.

O. H. M. S.

PT. EVERSON, E. I.

M. F. B. 270

MADE IN U.S.A. 1974-00-00
S. G. 1774-00-07

Correspondence to be PINNED here.

42 R.

Army Form A.3.

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

PROCEEDINGS.

On Active Service, this NINTH day of NOVEMBER, 1942.

A. *W. H. Young*
Order convening the Court

Whereas it appears to me, the undersigned, an officer in Command of 6th Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

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

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

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

* Omit if not applicable

- * ~~XXXXXX~~
- * ~~XXXXXX~~
- * ~~XXXXXX~~

REVIEW
M. J. G. Capt
Presiding Officer 606 B. Co. 10 M.B.C.
23 Nov 42

In my opinion military exigencies, namely the dispersion of units and difficulties of communication and other difficulties render it inexpedient to observe the provisions of those rules inconsistent with Appendix "A" to D.R.C. 772 on the trial of the person named in the annexed schedule.

	<i>10</i>	
Rank	President	Regiment
Major	N.H. Ross	Cazeros of C
	Members	
Rank	Name	Regiment
Capt	G. Fritz	S Bask B
Lieut	J.A. Lefebvre	Fus M B
<u>Officers under Instruction</u>		
Lieut	A.H. Stephenson	S Bask B
Lieut	J.B. Nesbitt	S Bask B
	*Signed <i>(H.A. Young)</i>	
	Commanding 6 Cdn. Inf. Bde.	
	Convening Officer.	

to be personally by Officer in Command at the time in compliance with the provisions of the Act.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B-52312 Pte EDWARD JAMES EVERSON, HQ 6 Cdn Inf Bde (Lorne Scots)	While on Active service, neglect to the prejudice of good order and military discipline, in that he, in the field, at 0750 hrs on 2 Nov 42 did negligently handle a rifle in such a manner as to cause it to discharge and wound B-73884 Cpl. Martin, C.E. A.A. Sec 40.	NOT GUILTY	GUILTY 15 DAYS DETENTION. Sentenced to Chicago 115 DAYS DETENTION. M.H.H. Major 9 Nov 1942	I confirm finding and sentence but advise that I am not authorised to confirm 15 days detention for this offence

* Question to be asked of accused, if he pleads not guilty (R. of F. 39 (A) 1):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) H.A. Young, Brig. Commanding HQ 6 Cdn Inf Bde.
(Signed) M.H.H. Major, President.
(Signed) Canon J.C., President.

- (a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

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

3

I certify that the above Court assembled on the 9th day of November 1942 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

B. Certificate of President as to proceedings.

I also certify that:—

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

were duly sworn.

Signed this 9th day of November 1942.

M.H.H. Major
President of the Court Martial.

* Omit if not applicable.

* See footnote (b) on page 702 M.M.L. 1942

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

C. Certificate in case of death sentence.

Signed this _____ day of _____ 19__

President of the Court Martial.

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

D. Confirmation.

* (I direct that the soldier named in the margin be not confined to prison until further orders.)

Signed this 10th day of November 1942

H.A. Young
Confirming Officer.

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

Promulgated and extracts taken in the case of B52312 Pte EVANSon T.C.

(a) (Dated) 10 Nov 42 (Signed) H.A. Young Capt. B.C.

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

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

MEDICAL INSPECTION

FUSILIERS MONT ROYAL, C.A. (G)

Loirne Scott
6 Bde

I hereby certify that I have examined Reg't'l No D-52812 Rank Pte
Name Ersson, A.S. this morning and that I have found him mentally
and physically FIT to undergo trial by F.O.C.M.

Place On the Field.

Date 9 Nov. 42
HT.

*with
main*

James Louis Vitchcraft
..... RCAF/C
Medical Officer Fus. M.R.

CHARGE SHEET

B2.

The accused, B-52312 Pte EDWARD JAMES EVERSON,
HQ 6 Cdn Inf Bde Def Pl (Lorne Scots), a soldier
of the Canadian Army Overseas, is charged with:

A.A. Sec 40

While on Active Service, neglect to the prejudice
of good order and military discipline in that he,
in the field, at 0750 hrs on 2 Nov 42, did
negligently handle a rifle in such a manner as to
cause it to discharge and wound B-73864 Cpl Martin, C.E.

E.J. Norris
(E.J. Norris), Lieut.,
Officer Commanding,
Def Pl (Lorne Scots),
HQ 6 Cdn. Inf. Bde.

In the Field
3 Nov 42

To be tried by F.G.C.M.

9 Nov 42

H.A. Young
(H.A. Young), Brig.,
Comd. 6 Cdn Inf Bde.

*N. H. 555,
Major.*

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

A

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

Proceedings of a *7. G.* Court-Martial held *at in the field*
on the *9th* day of *November* 19 *42* by order of Brig.
H. L. Young Commanding *6 Cdn. Inf. Bde.*
dated the *9th* day of *November* 19 *42*

President.

Majr N. H. Ross Cameron G.P.

Members.

Capt. C. Fritz D. Sask. R.
Lieut J. L. Lefebvre Fus. Dr. R.

Trial of *B52312 Pte. Edward James Everson*, Judge-Advocate-
Lawe Scots.

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,† *Capt. D. J. Leach Dr. Fus.*

Counsel or defending officer‡ *Lieut. A. Kearns R.C.A.*

At *5:10* o'clock the Trial commences.

The order convening the Court is read, and is marked *A* 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.

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?

Answer by accused.

No.

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

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

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

‡ Qualification to be stated.

(1)

B

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

The following officers under instruction are duly sworn.

Lieut. A. H. STEPHENSON
" J. R. NEBBIT
" J. W. BRYERS

S. SASK R.
S. SASK R.
H.Q. 6 CON. INF. BDE.

Charge-Sheet

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

Instruction.
If the accused has elected to be tried under Army Act, sec. 40 (B) the fact should be here recorded.

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

Not Guilty

Are you guilty or not guilty of the [first] charge against you, which you have heard read? Question in the accused.

Not Guilty.

Answer.

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

N.A.

Answer.

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

N.A.

Answer.

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

N.A.

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.

C

Proceedings on Plea of Not Guilty

*Instruction.
(See R. P. 39 (A))
Question.

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

Answer.

No.

The prosecutor makes an opening address ~~(hands in a written address, which is read, marked _____, signed by the President, and attached to the proceedings).~~

The prosecutor proceeds to call witnesses.

First witness
for
prosecution.

L-12776 L/C Snitzler L.W.
R.A. 6 Cdn. Inf. Bde. Def. Fl. (Lorne Scots).

being duly sworn, is examined by the prosecutor.

question 1.

Do you recognize the accused?

Answer 1.

Yes sir, that's him there. (pointing)

question 2.

where were you at about 0700 hrs Nov. 2 nd 42.?

Answer 2.

At about 0700 hrs on 2 Nov. 42, I was in my hut preparing for sick parade and I noticed S-0-312 Pte. Everach, I.S. "slamming his rifle. He had removed the bolt and was drawing the "pull through" through the barrel of his rifle several times. He then replaced the bolt, closed it and immediately following this I heard and saw his rifle discharge. Cpl. Martin who sleeps on the opposite side of the hut from me, cried out, and I saw that he had been injured. His right hand was covered with blood and the little finger was hanging by the flesh.

question No. 3.

Were there other men in the hut at that time?

Answer No. 3.

Yes sir.

C2

question No.4.

Were the majority of the men usually occupying the hut there at that time?

Answer No.4.

No, Sir.

ques. 5.

What were those in the hut doing at that time.

Ans. 5.

waiting to go on sick parade.

ques. 6.

Was there anyone else with a rifle left there.

Ans. 6.

No, Sir Pte. Everson was the only one.

Cross questioned by the defence.

ques. 1.

Has every man in the defence platoon a rifle.

Ans. 1.

I can't say Sir, I just returned from hospital the day before.

ques. 2.

What is the practice regards inspecting rifles after coming off guard.

Ans. 2.

There is an order to that effect.

ques. 3.

How was the rifle pointing.

Ans. 3.

It appeared to be pointing at the floor, I would say it was pointing down.

ques. 4.

How far from the accused were you.

Ans. 4.

about one foot.

and witness for the production.

D-61944 Pte. Broadu, G.G.
R.Q. 6 Can. Inf. Dep. Fl. (Lorne Scots)

being duly sworn is examined by the prosecutor.

Ques. 1.

Do you recognize the accused.

Ans. 1.

Yes Sir, thats him there.

Ques. 2.

Will you tell the court about what you know about this affair.

Ans. 2.

At about 0750 hrs. on 2 Nov 42, I was sitting on the bed tying my shoe laces. I heard a loud report and felt a blast against my face when I looked up I heard Col. Martin groan and hold his side I also saw the accused Pte. Everson, E.J. standing motionless on the opposite side of the but with a rifle in his hand, he seemed quite dazed.

Ques. 3.

you heard a shot and then saw Pte. Everson.

Ans. 3.

Yes Sir.

Ques. 4.

What parade were you preparing for.

Ans. 4.

Staff Captain's inspection, Sir.

Ques. 5.

Could you see anyone else cleaning their rifle at that time.

Ans. 5.

No Sir, the light was bad and I couldn't see very well.

3rd witness for the prosecution.

D-22097 Pte. Vilneff, A.L.
R.Q. 6 Can. Inf. Dep. Fl. (Lorne Scots)

being duly sworn is examined by the prosecutor.

Ques. 1.

Do you recognize the accused.

Ans. 1.

Yes Sir, thats him there.

Ques. 2.

Will you tell in your own words just what happened at 0750 hrs. on 2 Nov 42.

Ans. 2.

ans. 2.

at about 0750 hrs. on 2 Nov 42, I was sweeping the floor of my hut I saw Pte. Everson cleaning his rifle he was drawing a pull through the barrel of his rifle, about a minute or so later I heard a loud report and Cpl. Martin cry out. He was bent over and holding his left side, I ran to him and noticed that the little finger of his right hand was hanging by the flesh, I notice Pte. Everson standing on the opposite side of the hut with a rifle in his hand and he appeared to be dazed, I helped Cpl. Martin out of the hut to a truck.

Cross questioned by the defence.

ques. 1.

How was the light in the hut at that time.

ans. 1.

Very bad, Sir. The only light in the hut was a hurricane lamp on the table in the center of the hut about 16 feet from Pte. Everson there was very little if any light from the windows.

ques. 2.

How far from Pte. Everson were you at the time of the discharge of the rifle.

ans. 2.

About 16 feet Sir.

D

The prosecution is closed.

Defence

- Question to the accused. Do you apply to give evidence yourself as a witness?
Answer. *Yes.*
- Question. Do you intend to call any other witness in your defence?
Answer. *Yes.*
- Question. Is he a witness as to character only? Answer. *No.*

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*).

(Where the accused does not give evidence upon oath.)

- Question to the accused. Have you anything to say in your defence?
Answer. The accused in his defence says:
[Hands in a written address which is read, marked and signed by the President and attached to the proceedings.]

† 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.)

D2

*Instruction.
The evidence of
the witnesses
for the de-
fence, includ-
ing that of the
accused, if he
is a witness,
will be taken
here in the
order in which
they give evi-
dence.*

1st witness.

accused B-52312 Pte. Everson, J.E.
H.Q. 6 Cdn. Inf. Bde. Def. Fl. (Lorne Scotta)

ques. 1.

What is your age.

Ans. 1.

20 years Sir.

ques. 2.

How long have you been at Bde. H.Q.

Ans. 2.

One week.

ques. 3.

Before that.

Ans. 3.

at Holding Unit.

ques. 4.

When did you arrive in England.

Ans. 4.

In April 1942.

ques. 5.

Tell in your own words what you did after duty on Saturday, also Sunday and Monday.

Ans. 5.

I did my last tour of duty on Saturday and went to my hut and cleaned my rifle. I took five rounds out by opening and closing the bolt and put my ammunition in my baversack. On Sunday I was on kitchen fatigue all day and did not touch my rifle. On Monday before parade I removed the bolt, cleaned the barrel, returned the bolt, pressed the trigger, heard the report followed by a cry from L/Cpl. Martin.

ques. 6.

Just what did you do Saturday to remove the ammunition from your rifle.

Ans. 6.

I used the bolt to reject the rounds and five rounds came out. I then worked the bolt back and forth and then put the five rounds in my baversack.

ques. 7.

Sunday you say you were in the kitchen all day. Did you touch your rifle that day.

Ans. 7.

No Sir.

Ques. 8.

What was the light like in the hut Monday morning.

Ans. 8.

quite poor.

Ques. 9.

Were there many people in the hut, at that time.

Ans. 9.

Six or seven.

Ques. 10.

When you picked up the rifle on Monday, what action did you take.

Ans. 10.

I picked up my rifle and facing the foot of my bed held the rifle pointing to the floor and pulled back the bolt.

Ques. 11.

Did any rounds come out.

Ans. 11.

No Sir.

Ques. 12.

Did you look through the rifle barrel.

Ans.

No Sir.

Ques. 13.

What experience have you had in handling a rifle with live ammunition.

Ans. 13.

Only parade square drill. I was on the ranges only once since arriving in England in April.

Ques. 14.

Is there any other light you can throw on this affair.

Ans. 14.

No Sir.

Ques. 15.

Were you satisfied the rifle was not loaded at 5 p.m. on Saturday.

Ans. 15.

Yes Sir.

Crossed questioned by the prosecution.

Ques. 1.

You have been on a rifle range.

Ans. 1.

Yes Sir.

ques. 2.

What preliminary training have you had.

ans. 2.

The only training I've had was aiming at discs indoors.

ques. 3.

Have you ever done the standing load.

ans. 3.

No Sir. The first drill I've is since I came to England.

ques. 4.

Have you not been taught to point your rifle up.

ans. 4.

Yes Sir.

ques. 5.

You say the rifle was unloaded.

ans. 5.

Yes Sir.

ques. 6.

How did you know.

ans. 6.

I put five rounds in and took five out.

ques. 7.

How did you get the ammunition.

ans. 7.

I took the rounds out of the Eren box.

ques. 8.

Did you count the rounds.

ans. 8.

No Sir.

ques. 9.

You did not count the rounds you put in so wouldn't it be possible you put in six or seven instead of five.

ans. 9.

Yes Sir, its possible.

End witness for the defence.

Lieut. E. Morris
S. 4. 6 Can. Inf. Bde. Def. Fl. (Lorne Scots.)

Having been duly sworn is examined by the defence.

ques. 1.

ans Pte. Everson on strength on 2 Nov 42.

ans. 1. Yes, Sir.

Ques. 2.

Has every man in the defence Pl. a rifle.

Ans. 2.

No Sir. Some are away at Ordnance being repaired.

Ques. 3.

What does a man do to get a rifle when he has to go on guard.

Ans. 3.

He borrows one.

Ques. 4.

Is there a lineman in the huts.

Ans. 4.

No Sir.

Ques. 5.

Can anyone enter the huts at any time.

Ans. 5.

Yes Sir.

Ques. 6.

How rounds of ammunition is a man issued with.

Ans. 6.

50 rounds.

Ques. 7.

What are the orders in regards loaded rifles when the guard comes off duty.

Ans. 7.

A man will unload rifle before going into the hut and report to the guard Commander.

Ques. 8.

Were these orders given to Pte. Everson.

Ans. 8.

I can't say Sir.

Ques. 9.

You have examined the bullet in the walls of the hut and in your opinion at what ~~riffs~~ angle would the rifle be at the time it was fired.

Ans. 9.

The mission hut at the point where the bullet hit the wall in a double wall and the angle is parallel to the ground, about waist high.

Ques. 10.

Did you examine the rifle after the accident.

Ans. 10.

Yes Sir and found it in good condition.

Ques. 11.

If there were a round in the magazine could the barrel be pulled through without disturbing the round.

Ans. 11.

Yes Sir.

3rd witness for the defence
D-61416 L/ Cpl. Gordon, C.E.
H.Q. 6 Can. Inf. Bde. Def. Fl. (Lorne Scots)

Having been duly sworn is examined by the defence.

Ques. 1.

You were guard Commander Saturday 31 Oct 41.

Ans. 1.

Yes Sir.

Ques. 2.

Was Pte. Everson a member of the guard.

Ans. Sir.

Ques. 3.

What orders was he given before he went on guard.

Ans. 3.

I ordered him to go on guard.

Ques. 4.

Did you inspect his rifle on the conclusion of his guard duties.

Ans.

No, Sir.

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 *Guilty.*

Proceedings on Conviction before Sentence

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

Evidence of character, &c.

Question by the President.

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

Capt. W. J. Leach *Prosecutor* is duly sworn.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness. Yes.*

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked *C.*, signed by the President, and annexed to the proceedings.

Question by the President.

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

Question.

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

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. Yes.*

(Understandings—If by reason of the nature of the crime of the accused in a departmental court, 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 accused.

Question to the accused.

Do you wish to address the Court? *Answer. Yes.*

The Court is closed for the consideration of the sentence.

F

Sentence

The Court sentence the accused *115 days detention* Sentence.

Nov 8/42

I should like to have Lieut A Kearns
represent me at the trial

Signed E J Everson

Everson

F.C.C.M.

B52312 Pte Everson, J.E.

Witnesses for the prosecution:

- 1 L12776 L/Opl Snitzler, L.W.
H Q 6 Can Inf Bde Def Fl (Lorne Scots)
- 2 D61944 Pte Brochu, G.G.
H Q 6 Can Inf Bde Def Fl (Lorne Scots)
- 3 B52097 Pte Vilneff, A.L.
H Q 6 Can Inf Bde Def Fl (Lorne Scots)

*N. H. Rob.
Morgan*

I hereby CERTIFY that I have received the following documents;

I copy-Charge Sheet.

I copy- Summary of Evidence.

Nov. 7 42

Signed *E. J. Everson*
B52312, Pte. Everson, E.J.
H.Q. 6 Cdn. Inf. Sde. Def. Pl.
(Lorne Scots)

W. J. [unclear]
[unclear]

No. **B52312** Name **Everson, E.J.** Sqn. Battery, or Company
 Date of last entry in Company Conduct Sheet
 No. and date of last drunk

#2DD(AF) Lorne Scots
 Corps I Wing
 Period not reckoning towards freedom from extra fine

Date of enlistment **4-11-41**
 Sheet No
 Signature O.C.
 Company, etc.

G.C.
 Badges
 Service or Proficiency Pay

Character

M.F.M. 6
 (A.F.R. 112)
 10071 - 8-18 (1951)
 H.Q. 1771-21-18

Place	Date of offence	Rank	Case of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Toronto				5 Dec 41				J Bradley	Capt.
				son of #23 (B) TC 4 - 2 - 42					
				Attached to A-11 I.(A)T.C. from B.T.C. 23, effective 5 Feb 42					D.O. Part II No. 33
Camp Borden				No entries S.O.S. A-11 I(A)T.C. - 5 April 1942				E. Sinclair	Major
Cove	31 May 42	Pte		MCAS AWL from 2400 hrs 31 May 42 to 1740 hrs 2 Jun 42 total absence 41 hrs 40 mins. A.A. 15(1)	Cpl Meadow	2 dys forf pay 3 dys add forf of pay	4 Jun 42	2 LT. Col	H.W. Frost
Sheffield Park	4 Jun 42	Pte		AWL 46 hrs 30 mins	Documentary	6 days pay 5 days C.B.			Forf 2 dys pay F.R. & I. 149(2)a

Place	Date of offence	Rank	Character of offence	Offence	Name of Witness	Punishment awarded	Date of award or of order being made with effect	By whom awarded	Remarks
Soldier Cp	3-7-42	Pte		AWL 32 hrs 20 minutes	Cpl McLeod L/Cpl Prentice	Five days C.B.	11-7-42	Capt Phillips	Forf 2 days pay FR & I 149(1)(a).
Field	2-8-42	Pte		AWL from 2230 hrs 2-8-42 to Oct 42 hrs 7/8/42 absent 4 days 10 hrs 15 mins A.A. 15(1)	Sgt Johnston Sgt McLeod	Forf 5 days pays FR & I 149(1)(a). 28 days Field punishment.	7/8/42	Major Martin	
Field	4 Oct 42	Pte		AA Sec 15(1) AWL from 2400 hrs 4 Oct 42 to 1200 hrs 6 Oct 42. Absent 1 day 12 hours	Cpl Young	12 days stop- page of pay	8/10/42	J.R. Barber Major	2 days automatic forf of pay FR&I 149(1)(a). 12 days forf FR & I 149(2) Total forf 14 days pay.

Certified True Copy.

E. J. Morris
 (E. J. Morris), Lieut.,
 M.C. Det Lt. (The Scots)
 6 Cdn Inf Bde.

(Substitute for A.F.B. 296)
or N.F.B. 355

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No. B-52312 Name EDWARD JAMES EVERSON UNIT Def Pl HQ 6 Cdn Inf Bde
(Lorne Scots)
AGE 20 MARRIED OR SINGLE Single NO. OF DEPENDENTS none

DATE OF ATTESTATION Nov. 4 1941

NO. OF DAYS SPENT IN CLOSE ARREST (TO DATE OF TRIAL)

CIVIL _____ MILITARY 2 HOSPITAL _____ TOTAL _____

DATES OF PROMOTIONS? APPOINTMENTS AND CONFIRMATION OF RANK, IF ANY

NIL

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

E. J. Morris Lieut
(OFFICER COMMANDING)

Dated at In the field

This 9th day of Nov 1941

(To be dated and signed as of date of trial).

D. J. ... Capt. Defence Platoon Unit
HQ 6 Cdn Inf Bde

C. H. ...
Major

SUMMARY OF EVIDENCE

In the case of B-52312 Pte. Everson, E.J., R.Q. 6 Cdn Inf Bde Def Pl (Lorne Scots).

Charged 2 Nov 42., in the field, England, under Sec 40 A.A. WOAS, neglect to the prejudice of good order and military discipline in that he, at 0750 hrs 2 Nov 42., did negligently handle his rifle in such manner as to cause it to discharge and wound B-73884 Cpl. Martin, C.E.

The Bde Comd has directed that the evidence be taken under oath.

FIRST WITNESS

L-12776 L/Cpl. Snitzler, L.W. R.Q. 6 Cdn Inf Bde Def Pl (Lorne Scots), having been duly sworn states:

At about 0750 hrs on 2 Nov 42, I was in my hut preparing for parade and I noticed B-52312 Pte. Everson, E.J., cleaning his rifle. He had removed the bolt and was drawing the "pull-through" through the barrel of his rifle several times. He then replaced the bolt, closed it and immediately following this I heard and saw his rifle discharge. Cpl. Martin who sleeps on the opposite side of the hut from me, cried out, and I saw that he had been injured. His right hand was covered with blood and the little finger was hanging by the flesh. When we were removing Cpl Martin from the hut, I noticed that the clothing on the trunk of his body showed powder burns.

Question 1.

How was the lighting in the hut at this time?

Answer 1.

Very poor. There was one hurricane lamp in the middle of the hut about fifteen feet away from Pte. Everson, which was surrounded by men shaving. The blackout of the window near the accused was off but it was quite dark outside.

Question 2.

How far away from the accused were you standing?

Answer 2.

About one foot, sir.

Cross examined by accused:

Question 1

Do you remember whether I was facing the window?

Answer 1.

His back was towards the window, sir.

Sgnd.

L. Snitzler
L-12776 L/Cpl. Snitzler, L.W.

SECOND WITNESS

B-61364 Pte. Brochew, S.O. R.Q. 6 Cdn Inf Bde Def Pl (Lorne Scots), having been duly sworn states:

At about 0750 hrs on 2 Nov 42., I was sitting on a bed tying my shoe laces. I heard a loud report and felt a blast against my face.

/over

SUMMARY OF EVIDENCE CONTD.

SECOND WITNESS CONTD.

When I looked up I heard Cpl. Martin groan and hold his side. I also saw the accused B-52312 Pte. Everson, E.J. standing motionless on the opposite side of the hut with a rifle in his hand. He seemed to be dazed and was just starting towards Cpl. Martin. Cpl. Martin was taken out of the hut and I did not notice the extent of his injuries.

Question 1.

How far away were you from Cpl. Martin and Pte. Everson?

Answer 1.

About four feet from Cpl. Martin and about six or seven feet from Pte. Everson, sir.

Accused declines to cross examine this witness.

H. Brochu
Sgnd. B-61944 Pte. Brochu, G.O.

THIRD WITNESS

B-52097 Pte. Vilneff, A.L. M.Q. 8 Cdn Inf Bde Def Fl (Lorne Scots), having been duly sworn states:

At about 0750 hrs on 8 Nov 48, I was sweeping the floor in my hut. I saw Pte Everson cleaning his rifle and he was dressing a "pull-through" through the barrel of his rifle. About a minute or so later I heard a loud report and heard Cpl. Martin cry out. He was bent over and holding his left side. I ran to him and noticed that the little finger of his right hand was hanging by the flesh. I noticed Pte. Everson standing motionless on the opposite side of the hut with a rifle in his hand and he appeared to be dazed. I helped Cpl. Martin out of the hut to a truck.

Question 1.

How was the lighting in the hut at this time?

Answer 1.

Very bad, sir. The only artificial light in the hut was a hurricane lamp on a table in the centre of the hut about 18 feet away from Pte Everson. There was very little natural light from the windows if any.

Question 2.

How far away from Pte. Everson were you at the time of the discharge of the rifle?

Answer 2.

About sixteen feet, sir.

Accused declines to cross examine this witness.

A.L. Vilneff
Sgnd. B-52097 Pte. Vilneff, A.L.

The accused after being duly warned R.P. 4(e), declines to make any statement.

E.J. Everson
Sgnd. B-52312 Pte. Everson, E.J.

SUMMARY OF EVIDENCE CONTD.

Taken down in writing under oath by Lieut. E.J. Norris
C.C. H.Q. 6 Cdn Inf Bde Def Fl(Lorne Scots), on the
7th day of Nov 1942.

Certified that Rules of Procedure 4 (c) (d) and (e) have
been complied with

In the Field
Nov 7 1942.

E.J. Norris
(E.J. Norris) Lieut.,
C/C H.Q. 6 Cdn Inf Bde Def Fl.

N. H. B. 1942
11/7/42

FF-117

SGT EVERSON W.H

2
SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
H-19618 SERGEANT WILLIAM HENRY EVERSON, Camerons of C	First Charge A.A. Sec 17 See charge sheet attached.	Not guilty	Not guilty 5 June 43.	<i>W. Campbell Major</i>

* Question to be asked of accused, if he pleads not guilty (K. of P. 39 (A) 1):—
Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? *No, Sir.*
Answer to be recorded on separate sheet if necessary.

G. A. McVicker (Signed) *W. Campbell Major*
G.A. McVicker, Brigadier,
Commanding 6 Cdn Inf Bde. President

- (a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

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

3

I certify that the above Court assembled on the *5th* day of *June* 1943 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

B.
Certificate of President as to proceedings.

I also certify that:—

- The members of the Court
- The witnesses
- ~~The interpreter~~ *huc.*
- The officers under instruction)

* Omit if not applicable.

were duly sworn.

Signed this *5th* day of *June* 1943.

W. M. Shaw
capt
Judge Advocate

W. Campbell Major
President of the Court Martial

* See footnote (i) on page 704 M.M.L. 1942.

I certify that the terms of *A.C.I. 570 of 1916 have been complied with.

C.
Certificate in lieu of death sentences.

Signed this _____ day of _____ 19__

President of the Court Martial.

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

D.
Confirmation.

*(I direct that the soldier named in the margin be not committed to prison until further orders.)

Signed this _____ day of _____ 19__

Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

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

CHARGE SHEET

H-19618 Sergeant William Henry EVERSON, of the QUEEN'S OWN CAMERON HIGHLANDERS OF CANADA, a soldier in the Canadian Army Overseas, is charged with:-

FIRST CHARGE
A.A. Sec 17

When on Active Service, when concerned in the distribution of public property, fraudulently misapplying the same,

in that he,

at Petworth Park Camp, on 14 May 43, when concerned in the distribution of rations, public property, to the Queen's Own Cameron Highlanders of Canada, issued a quantity of tinned milk, tea and sugar, to the value of 12/-, to a civilian, a person not entitled to receive them, with intent to defraud.

In the Field
3 Jun 43

A. I. Law Lt. Col.

(A.T. LAW)

Comd. Camerons of Canada.

To be tried by F.G.C.M.

In the Field
4 Jun 43

B2
W. G. McCarter Brigadier,
(G.A. McCarter) Brigadier,
Commander 6 Cdn Inf Bde.

W. G. Campbell
Major.

DATE 5 June 1942

REPORT OF THE COMMANDING OFFICER

This is to certify that I have examined this morning
No. H19618.... Rank Sgt. Name Everson W. N.
on the above date. His category is A. and he is free of
communicable and infectious disease. ✓ fit for court martial

W. M. Arant Capt

Commanding Officer of Camp, Cdn. Army

W. M. Campbell Major

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

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

Proceedings of a ~~Field General~~ Court-Martial held at *In the field*
on the *5* day of *June* 19 *43* by order of

Brig G A M S Carter
Commanding *6 Cdn Inf Bde*

dated the *4* day of *June* 19 *43*
President.

Major R M Campbell, Cams of C.

Members

Capt W S Edmondson, S S R
Lieut H E Stacy, Cams of C.

Capt W M W Shaw, ADJA, 2 Cdn Div

Judge Advocate.

Trial of *H 19618 Sgt William Henry Everson,*
Cams of Can.

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~~

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

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

The accused is brought before the Court.

Prosecutor: *Capt R H Lane, Cams of C.*

~~defending officer:~~ *Lieut J J O Gagnon, Cams of C.*

At *11/5* o'clock the Trial commences.

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

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

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

No, Sir

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

*Here insert No., Rank, Full Name, Regiment, and Appointment (if any).

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

‡ Qualification to be stated.

The President, members and judge-advocate are duly sworn

The following officers under instruction are duly sworn

Capt R. J. Snider }
Lieut G. Kidd }
Company of C

Charge-Sheet.

The charge-sheet is signed by the President, marked B?

and annexed to the proceedings.

If the accused
has sworn to
be tried under
Army Art.
no. 10 (b) the
fact should be
here recorded.

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

Question: Are you guilty or not guilty of the [redacted] charge against you which
the accused

not guilty, Sir

Answer:

Question: Are you guilty or not guilty of the second charge against you which

Answer:

Question: Are you guilty or not guilty of the third charge against you which

Answer:

Question: Are you guilty or not guilty of the fourth charge against you which

Answer:

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the
President of the Court will proceed upon the record of a plea of "Not Guilty," the
fact should be here recorded.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the
fact should be here recorded.

*Instruction
(See R. P. 39
(A)
Question.

Proceedings on Plea of Not Guilty.

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

Answer

No Sir

The prosecutor makes ~~the~~ opening address (~~reads in a written address~~
~~which is read~~ signed by the President, and ~~read~~
~~to the court~~)

The prosecutor proceeds to call witnesses.

First witness
for
prosecution.

7691427 Sgt Beatt, H.A., S.I.B., South
Eastern Army.

being duly sworn, is examined by the prosecutor.

On 18 May about 1000 hrs went to NAAFI at
Chichester & took possession of a cardboard
box containing 10 tins nestle's milk, a 7 lb
cocoa tin containing a quantity of sugar and
a tin containing tea. (Exh A)

On Fri 21 May I again went to NAAFI where
I saw the accused. I told him who I was & I
was making enquiries re a Cdr Sgt who it was
alleged had taken a quantity of sugar, milk, tea
into NAAFI office on preceding Fri 19 May. He
said denied all knowledge & said "I am not
talking except in front of my Capt & GM at camp".
The following day Sat 22 May I went to Peterwell
where I again saw and in presence of his adj &
& GM. I cautioned him & after interrogation he
made a voluntary statement which I took
down in writing & which he signed. I produce
statement

Excess exam.

Enquiries I made at Chichester were made of a Miss
Halt because I had reason to believe that she was
in possession of goods - source was Civil police
and women was on civil charge
Statement on Fri 21 May that I am not talking, etc.
Definitely voluntary statement. Capt GM was present
at first part of taking statement but he left to make
a phone call. No one but acid & myself during latter
part of taking written statement. Caution & preliminary
interrogation took place - presence of GM & adj.
Did not mark articles, they have been in my possession
ever since except for the time when they were in
police Court in relation to another charge. I received
them back from civil police.
Articles belong to Cdr Scout I understand but cannot
say for certain who they belong to.

No re-exam

R.P. 33(B) complied with.

2nd Wit
ProsecutionMiss Dou's Olive Hall, 3 Appledram Lane, Rochester,
duly sworn, states:-

2nd Sgt came in to collect his MCA goods & brought
in a box which he put on a shelf. He did not say
anything to me at the time. After he had gone out
I looked into box & found milk, sugar & tea.
Exh A appears to be the same box - 12 tins milk -
Can't say definitely quantity of sugar or tea - they were
in tins. It remained in the office until Tues 18
May, Sgt Beatt & another Sgt came & took it away.
Accused is Cdn Sgt referred to in beginning of my
evidence. Was brought in on the Fri preceding the
Tues. - It was 14 May.

Cross-exam.Have had dates before me so much lately that I
know. I think 14 May was Fri.

MCA means messing cash allowance.

Exh A looks same to me as goods left in office.

Milk tins are similar.

No re-exam

Q^{uest} One tin given to staff outside & 1 tin was missing on
the Monday morning - were people working in
office all day Sun & I wasn't there. Staff were
12 tins originally.

R.P. 33(B) complied with.

Defence admit value 12/- and goods are similar in
type to army issue.

3rd Wit
Prosecution

Capt R.H. Lane, Comd of C, duly sworn, states:-

I took summary & after caution the accused
made the same statement to me as to Sgt Beatt
(summary marked Exh C: i.e. statement made
after caution)

Prosecution closed.

Def offered reasons for dismissal on grounds of no prima facie case -
refers to note 6 to sec 17.

Prosecuter no reply

Court allowed to consider the motion

Motion disallowed.

Court re-offered & decision announced.

R.P. 40 complied with.

~~The prosecution is closed.~~

Defence.

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

Answer.

yes, sir

Question.

Do you intend to call any other witness in your defence?

Answer.

yes, sir.

Question.

Is he a witness as to character only? Answer. *No.*

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) (b) and (ii) 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 ~~from~~

(Where the accused does not give evidence upon oath.)

Question to the accused.

~~Have you anything to say in your defence?~~

Answer.

~~The accused in his defence~~

~~made the following address which is read, marked~~

~~and by the President and attached to the proceedings.~~

1st
Defence

H19618, Sgt Everson, W. H., Comd of C, duly sworn, states:-
as sgt cook part of my duties is to buy extra rations & in course
of duties have to go to Chester to the Naafi depot have been
young here for 9 mos. all thru winter & spring I have done
business & have always been enjoined to have tea. some time
ago I heard several people on the warehouse saying they could not
find tea to outwards any more. On Fri preceding this I asked one
of my cooks to put up a bottle tea, sugar & milk to take away some
little time after this, this cook told me that the stuff was on the
bench - I did not suspect it as I was too busy. We got to Chester
where I took the box, laid it on a shelf & went about my
business. I said to 2 or 3 people around there "I will be able to
have tea when I come home at no one else's expense" after
which I loaded my stuff & left for Petworth. never paid for tea
I had at Naafi

Instruction.

* 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.)

The evidence of the witnesses for the defence including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

Cross-exam
 on box. Never inspected contents of box - never looked
 considerable goods. Never occurred to me whether
 others would use it.

Re-exam - nil

Court: when in my statement "I took some tins of milk, some tea & some sugar from my ration store & put them in a cardboard box." I meant I requested a subordinate to do it - Did not suggest how much to put in.
 Exch A is similar type of box we get a matter of 8 boxes on a double draw 4 times a week.
 Don't know names of people I told I could have tea at no one else's expense - Did not say this to Miss Hall.
 Did not make any restrictions or prohibitions on use - I thought I would be in the pool with the rest of them; they pool their resources.
 Unless usually take me 3/4 of a day; if I am not here I am entitled to my tea ration.

2nd Wit
 Defence } Miss Doris Olive Hall, 2nd unit for prosecution, re-called
 & still on oath states -

have given accused cups of tea, also his driver.
 We are allowed certain portion of tea a week, our own personal ration - it was from this we made the tea. never charged for it.

Cross-exam

Our ration is for the staff & I make tea for about 12 members of the staff.

3rd Wit
 Defence } H19395 Pte Mackdonald, H.T., Comd of C., duly sworn
 states -

I got asked me to put up a few rations to take out
 I put them up & took & put them in the truck. He told me to put tea, milk & sugar - but not tell me how much
 did not say what it was for. Never has asked me previously to do this thing.

Cross-exam

didn't know the purpose the goods were to be used.
 Not usual to put up rations without instructions as to amount - Had no instructions as to amt of goods to put in the box. Thought it was for regtl purposes.

Re-exam

Don't know whether rec. pl, copy or ltr going on scheme other than instructed.

Court

gathered up rations & then got box - cannot remember quantity I put in box. I got busson in my immediate NCO

4th Wit
 Defence } H20070 Hagyard, J.R., Comd of C., duly sworn, states -

am 1st driver & drive 1st busson on ration job usually - make rounds
 to ration point, shops, etc. go to kitchen & the staff - usually
 get a cup of tea there - never paid for it. I get driver for about 3 yrs.

No cross-exam.

Defence closed.

Def aff: - Reads.
Said to see
Para 10 on 2.
has responsibility

of tea when in can
of tea from their rations. M-119 note 6 on page 443
of his own rations & was not to deprive.
misapply when one man has control & can mean &
mistake is not fraudulent misapplication. Have proven
to court that the most acid could have been
guilty of was "improperly disposing of rations under
AA 40.

Prosecutor: - Acid admits taking rations from bin & taken
them down to civilian people where he intended them
to be used. Regardless of our benefit he has
knowingly fraudulently misapplied rations of
the unit.

Judge advocate sums up:

Court close to consider finding.

Op 99h: - Radio charge. Cases with X 1119 not 6 or page 913
 Sent to see photo & longman. intent to explain.

Page 10 on same page. Sent long man. who returns 5 copies,
 has responsibility. Either has to say or otherwise copy
 of the work in file. His friends were giving the
 papers then. He may not have been
 his own nation & was not fraudulently
 misapplying nations. One can only fraudulently
 misapply with one man has contacts. None present
 mistake's not fraudulent misapplication. None present
 to court that the most need could have been
 guilty of was 'impudently disposing of nations with
 900 90.

(Note: - Good advice taking nations from the & take
 decision to maintain rights where is intended the
 to be used. Regardless of our length to be
 authority fraudulently misapplied nations of
 the world.

Judge Adcox still same up:

Court close to consider pending.

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

(Question to the accused)
The Court is now ready to receive the evidence and to hear the testimony of the witnesses. The Court is now ready to receive the evidence and to hear the testimony of the witnesses.

Cross-examined by the accused.
Answer.

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?

(Question)

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

(Question)

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

(Question by the President)

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.

Have you any evidence to produce as to the character and particulars of service of the accused? Answer by the Witness.

(Question by the President)

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

(When the Court is ready to open the trial, the witness will be sworn and the evidence of character, etc.)

PROCEEDINGS ON CONVICTION before Sentence.

The Court find that the accused is not guilty.
The Court is closed for the consideration of the finding.

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

Finding.

E

Wm. S. Kays
capt
Judge Advocate
accused is released
Court re-opened, and finding
of NOT GUILTY announced
Bill Campbell
Major

2. "Ex B"
W. Campbell
1948.

Special Investigative Branch,
South Eastern Army,
22nd May, 1948.

Statement of No. H/19618. Sergeant FEVERSON W.H.,
Queens Own Cameron Highlanders of Canada,
Stationed at Peterborough who states: -

I have been cautioned by Serjt. Beatt
that I am not obliged to say anything but
that anything I say will be taken down in
writing and may be given in evidence. To
show that I understand this caution I sign
my name.

W. H. Feverson

On Friday 14th May, 1948, before leaving
Camp to go to the NAAFI at Chichester I took some
tins of milk, some tea and some sugar from
my ration store, and put them in a
cardboard box. I am Ration Sergeant so I
have access to the ration store.

I put this stuff into the truck and
went to the NAAFI at Chichester. I took the box
of food into the Order Office and put it on
a shelf. I do not remember saying anything
to anybody about this stuff, but I remember
that a Miss Hall, who works in this Office,
was present.

I received no money for this food,
and did not want any. The reason I took
it in was that on previous visits to the
NAAFI members of the staff there had given
me cups of tea and I was repaying them
for their kindness. They had told me that

they were short of tea, sugar and milk and that they would have to give up drinking cups of tea. Nobody asked me to take these rations. I did it of my own free will. It is the first time I have ever done this.

W. H. G. G. G.

I have read over the above statement and it is true. It is made quite voluntarily and no inducement, persuasion or threat has been used or held over me.

W. H. G. G. G.

Statement taken and signature witnessed by me at Peterworth on 22nd May, 1943.

Harriet G. G.

The accused declines to cross question the witness.

SUMMARY OF EVIDENCE

In the case of H-19618 Sergeant William Henry EVERSON of the Queen's Own Cameron Highlanders of Canada, a soldier in the Canadian Army Overseas.

The accused is informed of his rights.

The Commanding Officer directs that the evidence be given under oath.

FIRST WITNESS 7691427 Sergeant Beatt, H.A., S.I.B., South Eastern Army, having been duly sworn states:-

I am 7691427 Sergeant Beatt, H.A., S.I.B., South Eastern Army. On Tuesday, 18 May 43, I went to the NAAFI Supply Depot, Summersdale Road, Chichester, and took possession of the cardboard box containing 10 tins of Nestles Evaporated Milk, one 7 lb cocoa tin containing sugar and a further tin containing tea. On Friday, 21 May 43, at 1000 hrs, I again went to the NAAFI Supply Depot and there saw Sgt. Everson, W.R., Queen's Own Cameron Highlanders of Canada. I told him who I was and that I was making enquiries regarding a sergeant who, it was alleged had taken a quantity of W.D. rations to the NAAFI on Friday, 14 May 43, leaving them in the office there. Sgt. Everson denied all knowledge of this, saying, "I am not talking except in front of my Captain Quartermaster at camp." At about 1100 hrs on Saturday, 22 May 43 I saw Sgt. Everson at his camp in Petworth Park in the presence of his Adjutant and Quartermaster. He was cautioned and interrogated and subsequently made a voluntary statement, which I took down in writing at his dictation and which he signed.

Accused declined to cross examine the witness.

SECOND WITNESS S-212704 Cpl. Wheeldon, J. attached C.S.D., Chichester, having been duly sworn states:-

I am S-212704 Cpl. Wheeldon, J. attached C.S.D. Chichester. I have been shown 10 tins of Nestles Evaporated Milk, one tin containing 1.15/16th lbs of tea, and 1 tin containing 9.15/16th lbs of sugar. The milk I identify as being similar to W.D. issue, and is valued at 6/-. The tea I value at 4/3d and the sugar at 1/9d.

Accused declined to cross examine the witness.

THIRD WITNESS Miss Doris Olive Hall, 3 Appledram Lane, Chichester having been duly sworn states:-

I am Miss Doris Olive Hall, 3 Appledram Lane, Chichester. Up to 18 May 43, I was employed as a clerk at the NAAFI Supply Depot, Summersdale Road, Chichester. On Friday, 14 May, I think it was in the morning, I was working in my office when a Sgt. of the Queen's Own Cameron Highlanders of Canada came into the office carrying a cardboard box. He put this on the empty shelves. I do not think he said anything to me. This sergeant was well known to me by sight but I did not know his name. He was between 35-40 year of age, Medium height, slim build, thin face and with a small moustache. He gave me his order for groceries and I made out the bill. I was quite busy at the time as I was working single-handed

Some time after the sergeant had gone, I locked in the box and found there were 12 tins of Nestles Milk, a 7 lb tin full of sugar and a smaller tin full of tea. I assumed this stuff had been left by the sergeant for the use of the NAAFI staff, but I thought there was rather a lot so I thought I ought to report it to Mr. Johnson, the Depot Manager. I was too busy to do this on Friday, but on Saturday morning I went to Mr. Johnson's office but he was out. I was off duty on Saturday afternoon and Sunday and when I went to work on Monday I was off-colour with a bad cold and forgot about telling Mr Johnson. I left work about 9.30 a.m. on Monday as I was feeling so queer. On Monday evening I was seen at my home by the police regarding these rations.

I have never asked this sergeant to bring me any rations. What he did bring was without my knowledge.

I realize now that it was wrong to have this food but it did not occur to me at the time that I was doing anything wrong, although I did intend to report it to Mr. Johnson.

I can honestly say I did not ask for these rations and the sergeant I have described brought them in of his own free will. I can recognize him again as I have seen him at the NAAFI very often.

Accused declines to cross examine the witness.

The accused having been duly cautioned in accordance with R.F. 4(e) says:-

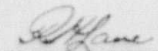
"I want to make a statement."

On Friday, 14 May 43, before leaving camp to go to the NAAFI at Chichester, I took some tins of milk, some tea and some sugar from my ration store and put them in a cardboard box. I am Ration Sergeant so I have access to the ration store.

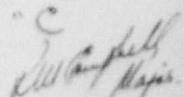
I put this stuff into the truck and went to the NAAFI, at Chichester. I took the box of food into the Order Office and put it on a shelf. I do not remember saying anything to anybody about this stuff but I remember that a Miss Hall, who works in this office, was present. I received no money for this food and did not want any. The reason I took it in was that on previous visits to the NAAFI members of the staff there had given me cups of tea and I was repaying them for their kindness. They had told me that they were short of tea, sugar and milk and that they would have to give up drinking cups of tea. Nobody asked me to take these rations. I did it of my own free will. It is the first time I have ever done this.

Certified that R.F. 4(e) complied with.

In the Field,
3 Jun 43



(W. E. Lane) Capt.
Cameron of Canada

"C"

W. Campbell

I hereby acknowledge receipt of one copy of the Charge Sheet and Summary of Evidence.

W.H. Everson
H-19618 Sgt. Everson, W.H.

I request that an officer be appointed to represent me at my trial.

W.H. Everson
H-19618 Sgt. Everson, W.H.

1576. Ste. Exito, R. L. W.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A-22221, Pte. Robert Laurence Wilbert EVERTS, Essex Scot. Canadian Army (Active)	FIRST CHARGE:- A.A. Sec. 12 (1a) When on active service deserting His Majesty's Service. (SEE CHARGE SHEET ATTACHED)	Not Guilty of desertion but Guilty of A. W. L.	Not Guilty of desertion but Guilty of A. W. L.	
	SECOND CHARGE:- A.A. Sec. 17 When concerned in the care of public property, selling the same. (SEE CHARGE SHEET ATTACHED)	Not Guilty	Not Guilty	
	THIRD CHARGE:- A.A. Sec. 40 Conduct to the prejudice of good order and military discipline. (SEE CHARGE SHEET ATTACHED)	Not Guilty	Not Guilty	Confirmed C. W.
	FOURTH CHARGE:- A.A. Sec. 24 (2) Losing by neglect his regimental equipment and necessaries. (SEE CHARGE SHEET ATTACHED)	Not Guilty except that he did not deposit in blankets his helmet, steel, tommy hands, files, spurs, table, shirt, canteen, messing field, tent etc.	Not Guilty except that he did not deposit in blankets his helmet, steel, tommy hands, files, spurs, table, shirt, canteen, messing field, tent etc.	Not Guilty except that he did not deposit in blankets his helmet, steel, tommy hands, files, spurs, table, shirt, canteen, messing field, tent etc.

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

(Signed) *C.B. Topp* Brigadier, Commanding 4 CDN. INF. BDE. (Confirming Officer (d))
(Signed) *B. Macdonald* Major, President.

- (a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialed by him.

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

3

I certify that the above Court assembled on the 28th day of August, 1941 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :-

- The members of the Court
- The witnesses
- ~~The interpreters~~
- The officers under instruction

* Omit if not applicable.

were duly sworn, *the shorthand notes*

Signed this 28th day of August 1941.

B. Macdonald
President of the Court Martial

* See footnote (b) on page 704 M.M.L. 1939.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this _____ day of _____ 19__

President of the Court Martial.

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

* (I direct that the soldier named in the margin be not committed to prison until further orders.)

Signed this 5th day of Sep. 1941

C. W. O. A. M.
Confirming Officer.

Promulgated and extracts taken in the case of A22221 Pte R.L.W. EVERTS
(a) (Dated) 12 Sep. 41. (Signed) *Capt. Adams* CAPT. ADJUTANT - ESSEX SCOT.

Promulgated and extracts taken in the case of
(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of
(Dated) _____ (Signed) _____

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

FORM 81 (1939-40) (REVISED) (M.M.L. 1939)

65

MEDICAL OFFICER'S REPORT.

3

25

I certify that No. A2221 Pt Evans R.A.A.
of Company is in a fit state of health,
and is fit to undergo Trial by Court-martial.

W. H. G. R. C. H. C.
Medical Officer.

Station Camberley P. 1
Date Aug 20 1918 W. H. G. R. C. H. C.
W. H. G. R. C. H. C.

M.F.W. 246.
25m-3-18.(M)
H.Q. 1772-39-480.

Copy

CHARGE SHEET

The accused, No. A-22221, Pte. Robert L.W. Everts, 1st Battalion, The Essex Scottish Regiment, a soldier of the Canadian Army (Overseas), is charged with:-

First Charge:- When On Active Service, deserting His Majesty's
Sec.12(1)(a) Service -
in that he
At Rye, on the first day of August, 1941, at 0930 hrs., absented himself from the Essex Scottish Regiment until apprehended by the civil powers at Lewes on the second day of August at 1745 hrs., dressed in civilian clothes. *ndj*

Second Charge:- When concerned in the care of public goods,
Section 17 stealing the same -
in that he
At Rye, on the first day of August, 1941, when as a member of the Intelligence Section, he was concerned in the care of a bicycle, No. T23600, stole said bicycle. *ndj*

Third Charge:- Conduct to the prejudice of good order and military
Sec.40 discipline -
in that he
At Lewes, on the second day of August, 1941, was improperly in possession of one pair of pliers, No. 25, the property of the Signal Platoon of the Essex Scottish Regiment. *ndj*

Fourth Charge:- Losing by neglect his equipment and regimental
Sec. 24(2) necessities in that he,
At Camberley, on the 15th day of August, 1941, was deficient of:-

1 Blankets 1	1 Spoons, table 1	<i>ndj</i>
1 Sheet, ground 1-100	1 Shirts, cotton, khaki 1	<i>4/0/2</i>
1 Helmet, steel 1	1 Shirts, cotton 1	<i>ndj</i>
1 Badges, cap 1	1 Shirts, flannel 1	<i>4/12</i>
1 Towels, hand 2	1 Knives, clasp 1	<i>2/10</i>
1 Forks 1	1 Dressing, field 1	<i>ndj</i>
1 Blouses, B.D. 1		
1 Trousers, B.D. pairs 1-0-5		<i>ndj</i>

Signed at CAMBERLEY
August, 1941

(SIGNED)...(A.S. FRASER)...
Commanding, 1st Bn.,
The Essex Scottish Regiment

To be tried by an F.G.C.M.

(SIGNED)...(C.B. TOPP).....
Commanding,
4 Cdn. Inf. Bde.

I certify this to be a true copy of the original charge sheet as prepared by Lieut. J.A. Turnbull and submitted to the above signatories.

TRANSCRIPT OF EVIDENCE

In The Case Of

A-22221, Pte. Everts, R.L.W.,
1st Bn. THE ESSEX SCOTTISH REGIMENT, Cdn. Army (Overseas)

After the reading of the Convening Order for this Court Martial, and identifying of the Court by the President of the Court, the Defending Officer objects.

By the Defending Officer: The taking of the Summary of Evidence was not made in the presence of the Accused, and the Summaries of Evidence were not signed by the Witnesses, nor was the Accused given any chance to question any of the witnesses during the summary of Evidence. Although the Unit was spread over a fairly wide area, it appears to me that there would have been no inconvenience to have all the witnesses, with the possible exception of the Detective-Sergeant, Leader, of the LEWES Police, gathered in one place for the taking of the summary of evidence in the presence of the Accused.

By the Prosecutor: The new procedure permits of the taking of an abstract of evidence. It appears to me that it would be in the interests of the Accused not to make any statement during the Summary of Evidence, or to ask any questions, because he had a chance to make it at a later date, and if he did he might jeopardize his case, and that's the reason a statement was not asked for, and the Abstract to be as it is.

By the Defending Officer: In that case, there is a possibility of false evidence in the Abstract going before the Brigadier for his convening of this Court Martial, and the Accused had not chance of questioning any probable false statements.

By the Court: Mr. McGregor (the Defending Officer), in reply to your objection, you will notice that in the convening order I read out an additional clause which refers to military exigencies in the interests of communication. In addition to that, I should like to point out that ~~the~~ ^{an} Abstract of the Evidence is before me, and that it will not be seen by the other members of the Court unless the accused pleads guilty. So with that explanation I am over-ruling your objection, and that the Defending Officer may take ~~the matter as advised.~~ ^{such action as he may deem advisable.}

The Court was sworn in.

The Court Stenographer was sworn in.

~~The accused is charged.~~
By the Court to the Accused: What is your number, rank, name and initials?

By the accused: A-22221 Private R.L.W. Everts, 1st Bn. The Essex Scottish Regiment, Canadian Army (Overseas.) *Do not give number, rank, name and unit*

By the Court: You are charged with deserting His Majesty's Service in that you at RYE, on the first day of August, 1941, at 0930 hours, absented yourself from the Essex Scottish Regiment until appre-

hended by the civil powers at LEWES on the second day of August at 1745 hours, dressed in civilian clothes. How do you plead? Guilty or Not Guilty?

By the Accused: Not Guilty, sir.

Secondly you are charged under Section 17 of the Army Act, when concerned in the care of public goods, stealing the same, in that you at RYE, on the first day of August, 1941, when as a member of the Intelligence Section, ~~you were~~ concerned in the care of a bicycle, No. T23600, stole said bicycle. How do you plead? Guilty or Not Guilty?

By the Accused: Not Guilty, sir.

By the Court: Thirdly, you are charged under Section 46 of the Army Act, ~~conduct~~ conduct to the prejudice of good order and military discipline, in that you, at Lewes, on the second day of August, 1941, were improperly in possession of one pair of pliers, No. 25, the property of the Signal Squadron of the Essex Scottish Regiment. How do you plead? Guilty or Not Guilty?

By the Accused: Not Guilty, sir.

By the Court: Fourthly, you are charged under Section 24(2) of the Army Act, ~~losing~~ losing by neglect your equipment and regimental necessaries in that you, at Camberley, on the 15th day of August, 1941, were deficient of: Blankets, 1; Sheet, ground, 1; Helmet, steel, 1; Badges, cap, 1; Towels, hand, 2; Forks, 1; Blouses, B.D., 2; Trousers, B.D., pairs, 2; Spoons, table, 1; Shirts, cotton, khaki, 1; Shirts, cotton, 1; Shirts, flannel, 1; Knives, clasp, 1; Dressing, field, 1. How do you plead? Guilty or Not Guilty?

By the Accused: That is not the amended list, sir. I will plead guilty to the amended list, but Not Guilty to that one.

By the Court: To keep the records in order, it would be better to plead Not Guilty.

By the Accused: I plead Not Guilty, sir.

By the Court: 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?

By the Accused: No, sir; I don't.

By the Court to the Defending Officer: In the face of your objection to the Summary or Abstract of Evidence, 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 the Accused has been prejudiced thereby?

By the Defending Officer: No, sir; I just made the objection for the protection of the Accused.

The Prosecutor hands the Court a Medical Officer's certificate that the Accused is fit to undergo trial by Court Martial, and it is entered in the Court Records as 'p.1.'

By the Prosecutor: The charges are before the Court, and with reference to the accused, I will attempt to prove that the Accused did, on 1st August, 1941, absent himself from the Essex Scottish, and that he was picked up by civil authorities in Lewes on 2nd August, 1941. At that time there was in his possession, a pair of pliers, No. 25, mentioned in Charge three; and also at the time of his apprehension, a bicycle T23690 was traced to his possession in Lewes. At the time of his apprehension by civil authorities, the accused did not admit that he was a member of the Canadian Army Active, but led the police to believe that he was one Marshall. The witnesses are Sgt. Flatt; Provost Sergeant Adams; Lieut. J.C. Brick; L/Cpl. Wilton; and Detective Sergeant S. Leader of Lewes. Detective Sergeant Leader was to have been here, but through my fault, by not taking the proper procedure for getting him here through higher authority he is not here. But he wouldn't come without a warrant. We had got in touch with him by telephone, but too late. I feel that we can proceed with the evidence, and support the charges without his evidence.

By the Court to the Defending Officer: Have you any objections to have the Accused tried on all charges in one Court Martial, or do you wish to have separate ~~charges~~ trials for each charge?

By the Defending Officer: You may try them all at one time.

By the Court: *Very well. All will be tried together.*

First witness is called for the Prosecution and is duly sworn.

By the Court: What is your full name, rank, and number?

By the witness: Arthur William Flatt, The Essex Scottish Regiment, A-21814.

By the Court: *Present* Do you know the accused?

By the witness: Yes, sir.

By the Prosecutor: What is your job in the Battalion?

By the witness: I am the Intelligence Sergeant.

By the Prosecutor: As such you have Pte. Evert under your authority?

By the witness: He is in the section, sir.

By the Prosecutor: Can you tell us what dealings you had with Pte. Everts around the first of August, 1941?

By the Witness: He just joined the Section around the end of July, and at that time he was warned to go on a sniper's course, which I duly warned him for.

By the Prosecutor: At what time was he warned?

By the Witness: He was told to be ready at 0900 hrs, 1st of August at his Observation Post. He was stationed at that time at Camber under Corporal Heaton, and was told to be ready at 0900 hours, when I would pick him up.

By the Prosecutor: Did you go down to pick him up?

By the Witness: I went down around 1000 hours, and he wasn't there.

By the Prosecutor: You mean that you weren't there to pick him up?

By the Witness: I was there somewhere between nine thirty and ten o'clock.

By the Prosecutor: And Pte. Everts was not there?

By the Witness: No, sir.

By the Prosecutor: What did you do?

By the Witness: At the time I didn't do anything. I came back with the other two men, and went back to Camber to bring him back. I thought he might have been out for tea, so I came back without him.

By the Prosecutor: Did you make any investigations?

By the Witness: I did make inquiries, but nobody knew where he was.

By the Prosecutor: You didn't do anything else after you found that he wasn't there sometime between nine thirty and ten o'clock?

By the Witness: A report was made to Lieut. MacIntyre.

By the Prosecutor: Was any report made to anybody else?

By the Witness: To Sgt. Adams.

By the Prosecutor: Did you report anything else to Sgt. Adams?

By the Witness: Just that the bicycle was missing?

By the Prosecutor: Do you remember the bicycle number?

By the Witness: No, sir; although I have it marked down someplace.

By the Prosecutor: How would Pte. Everts have access to the bicycle?

By the Witness: It was allotted to the Intelligence Section C.P. at Camber.

- By the Prosecutor: Then in effect, you went, sometime between 0930 and 1000 hours, 1 August, 1941, to pick up Pte. Everts to take him to a course, and he wasn't there, and at 1200 hours you reported to Sgt. Adams that Pte. Everts together with the bicycle, the property of the Intelligence Section, was missing?
- By the Witness: Yes, sir; but I reported it to Sgt. Adams closer to one thirty.
- By the Defending Officer: Did you personally warn Pte. Everts?
- By the Witness: Yes, sir; the night before.
- By the Defending Officer: You personally spoke to him?
- By the Witness: Yes, sir.
- By the Defending Officer: At what time was the accused warned to leave for the course?
- By the Witness: On the third of August, the Sunday.
- By the Defending Officer: Where were they to report?
- By the Witness: At the Battalion Orderly Room.
- By the Defending Officer: You mentioned that Pte. Everts only recently joined the Intelligence Section?
- By the Witness: He re-joined it about the middle or end of July.
- By the ~~Prosecutor~~ Defending Officer: He had how much service with the Intelligence Section?
- By the Witness: Several months.
- By the ~~Prosecutor~~ Defending Officer: For how long?
- By the Witness: Until around the first of the year, about March. Then he left the Intelligence Section to go to the Orderly Room.
- By the Defending Officer: When did he first join the Intelligence Section?
- By the Witness: He joined the Intelligence Section sometime in September of 1940.
- By the Defending Officer: About the bicycle; you say the bicycle was left at the Camber Observation Post for use by the men of the Intelligence Section?
- By the Witness: Yes, sir.
- By the Defending Officer: Was there any crime involved by taking the bicycle without permission?
- By the Witness: He usually should ask for the use of the bicycle.
- By the Defending Officer: Was the fact that he took the bicycle out without permission anything unusual?
- By the Witness: It was not out of the ordinary.

By the Court: When ^{was} the bicycle first noted as being missing?

By the Witness: The actual loss of the bicycle was not noticed until night, because the bike is usually used by the men going for tea. I visited the O.P. to make certain of it, and I figured that the man was A.W.L., and the bicycle was missing, but up to that time I thought that it was only one of the men using the bicycle to get refreshments.

By the Court: You can identify the bicycle by number?

By the Witness: I have the number written down someplace.

By the Prosecutor: Sergeant Platt, in your evidence you said that the bicycle was not missed until night?

By the Witness: The actual meaning of that is that the bicycle might be going all day, and seeing that the man didn't return, I reported the bicycle missing. We have men off duty all day long, and they have permission to have the bicycle all day long.

By the ~~Prosecutor~~ ^{Defending Officer}: I should like to know if Pte. Everts was off duty at the time?

By the Witness: He wasn't, sir. He was to report at nine o'clock, and at that particular time he had no other duties to perform.

By the Court: Does that answer your question?

By the ~~Prosecutor~~ ^{Defending Officer}: I should like to know if Pte. Everts had just finished a tour of duty?

By the Witness: He did, but I don't know the exact time; but it was in the early morning of the first of August.

(Witness Retired)

Second Witness is called for the Prosecution and is duly sworn.

By the Court: What is your full number, rank and name?

By the Witness: Regimental Provost Sergeant, The Essex Scottish Regiment; Richard Joseph Adams, A-21108.

By the Prosecutor: Sgt. Adams, you are the Provost Sergeant?

By the Witness: Yes, sir.

By the Prosecutor: Do you know the accused?

By the Witness: Yes, sir.

By the Prosecutor: You were given certain instructions by the Adjutant sometime around 1st of August?

By the Witness: On the morning of 4th August, I received information to proceed to ~~the~~ ^{the} ~~area~~ ^{area} on the morning of 5th August to possibly identify a person suspected by the civil police there as a possible absentee.

By the Prosecutor: You went to Lewes to identify someone who was suspected of being a member of our Unit?

By the Witness: Yes, sir.

By the Prosecutor: After receiving these instructions, what did you do?

By the Witness: On 5th of August, I proceeded with Pte. Brown to Lewes.

By the Prosecutor: What conversation did you have with the Lewes police authorities about identification purposes?

By the Court: You can't repeat what someone else said.

By the Prosecutor: What did you do at Lewes?

By the Witness: I contacted Sgt. Edgar of the Canadian Provost who informed me that a person was held by the Lewes police. I went to the Police where Sergeant Leader showed me photos of a person in civilian clothes whom they suspected of being an absentee from the Canadian Army.

By the Prosecutor: As the Sergeant went there for identification purposes, and the police gave him instructions, and I submit that he is competent to give evidence as to instructions received.

By the Court: The police are not here, and they have to give that evidence themselves.

By the Prosecutor: I take it that Sgt. Adams is not a competent witness, as to any directions he has had in the performance of his duty?

By the Court: Not unless those persons are here to give evidence themselves. *He may say what he did as a result of instructions received by him.*

By the Prosecutor (to the Witness): You were shown certain photos?

By the Witness: Yes, sir.

By the Prosecutor: These photos were of whom?

By the Witness: Of a man in civilian clothes whom I identified as Pte. Everts, who was absent at that time from the Bn.

By the Prosecutor: And then what did you do?

By the Witness: I asked Sgt. Leader if I could go to the prison and identify this person in prison, which I did.

By the Prosecutor: What happened when you went to the prison?

By the witness: The Governor of the prison had the person waiting in the Admitting Room, and he had him standing there when I went in, and I identified him

as Pte. Everts of the Essex Scottish, who is here in Court today.

By the Prosecutor: Was anything said at that time?

By the Witness: The Governor asked Pte. Everts if he had anything to say, and he said that he had nothing to say.

By the Court: Anything said in the presence of the Accused is permissible.

By the Prosecutor: What happened after you made the identification?

By the Witness: I returned to the Police Station.

By the Prosecutor: Why didn't you bring Pte. Everts back with you the first time you went to "ewes."

By the Witness: He was remanded on a charge of theft of a bicycle, which they had to place against him to hold him.

By the Prosecutor: I take it that you came back to Rye, and at a subsequent date went back to Lewes again?

By the Witness: Yes, sir.

By the Prosecutor: What did you do on the second trip?

By the Witness: On the morning of the 12th of August, I proceeded from Camberley to Lewes to pick up Pte. Everts as his charge had been dropped, and he was to be turned over to the military authorities.

By the Prosecutor: You attended the hearing before the magistrate at Lewes?

By the Witness: No, sir.

By the Prosecutor: Do you recognize this document?

By the Witness: Yes, sir; it was given to me by the superintendent of police to be taken to the Bn. Orderly Room.

A.F.O. 1618 is handed to the Court by the Prosecutor, and it is entered in the Court Records as 'P.2.'

By the Prosecutor: At the time that Pte. Everts was turned over to you in military custody, were any other papers or documents given to you by the police?

By the Witness: Yes, sir; several papers, some wallets, including American Army discharge papers.

By the Prosecutor: Was this one?

By the Witness: Yes, sir.

By the Prosecutor: The documents were in the care of Sgt. Adams since his return from Lewes.

By the Prosecutor: Are those all the documents that were handed over to you by the police?

By the Witness: Yes, sir.

By the Prosecutor: You got all the documents found on Pte. Everts.

By the Witness: Yes, sir.

By the Prosecutor: I understand that you were shown a bicycle at Lewes when you were there?

By the Witness: Yes, sir.

By the Prosecutor: Can you tell us anything about the bicycle?

By the Witness: I identified it as the bicycle that had been reported to me as being missing at the same time that Pte. Everts was reported A.W.L. I examined the bicycle, and found that the serial number corresponded with the number that I had received as being missing.

By the Prosecutor: Then the bicycle you saw was a bicycle belonging to the Intelligence Section of the Essex Scottish Regiment?

By the Witness: Yes, sir.

By the Prosecutor: Was it turned over to you as part of the effects of Pte. Everts by Sergeant Leader of the Lewes civilian police?

By the Witness: Yes, sir.

(The documents, personal effects of the Accused, were handed to the Court and entered in the Court Records as 'P.3.' The pliers were marked and entered as 'P.4.')

By the Prosecutor: Do you recognize the bicycle and the clothes?

By the Witness: They were the suit of civilian clothes that Pte. Everts had on when I returned him to the Regiment.

The suit of clothing, consisting of a pair of trousers, coat and vest, and a shirt and tie, were entered in the Court Records as 'P.5.'

By the Prosecutor: Then you, after having received the clothing, pliers and the documents, brought Pte. Everts back to Camberley?

By the Witness: Yes, sir.

By the Prosecutor: Apart from the two documents that you have seen, were any documents that would connect Pte. Everts with the Essex Scottish Regiment handed over to the civilian police?

By the Witness: No, sir.

By the Defending Officer: In your abstract of Evidence you say "I saw Pte. Everts in person and identified him. On 12 Aug 41 I again attended at Lewes, Sussex, and the Court of Petty Sessions where I heard Pte. Everts admit that he was an absentee without leave from the Essex Scottish Regiment", and in your evidence you say that you were not present at the Court?

By the Witness: I arrived at the Court when the Court was

over, and they had released Pte. Everts from the civil charge, but he was held, to be turned over to the military authorities. I then escorted him back to Camberley.

By the Defending Officer: With regard to the pliers, was there any mark on them that might make you believe them to belong to the Essex Scottish Regiment?

By the Witness: There was a Canadian Army mark on them, and a numeral stamp.

By the Prosecutor: If you remember that the pliers were only turned over to him, and he only gave evidence that they were the pliers brought back from Lewes.

By the Defending Officer: If you were only an ordinary person, that is, a civilian, and you saw the pliers, for the first time, would you know that they would be the property of the Regiment?

By the Witness: No, sir; but I would say that they were the property of the Canadian Army.

(Witness Retired)

Third Witness for the ~~Prosecution~~ Prosecution is called and duly sworn.

By the Court: What is your full rank and name?

By the Witness: Lieutenant J.M. Brick, The Essex Scottish Regiment.

By the Prosecutor: You are the Signal Officer?

By the Witness: Yes, sir.

By the Prosecutor: You are familiar with the equipment of your platoon?

By the Witness: Yes, sir.

By the Prosecutor: Do you recognize these pliers?

By the Witness: I do.

By the Prosecutor: How?

By the Witness: We have issued thirty-six pliers, from 21 to 36, this is serial number 25. It is a serial number put on by the storeman of our own platoon.

By the Prosecutor: Can you say positively that these pliers are the property of your section?

By the Witness: Yes, I can.

By the Prosecutor: Have they any marks peculiar other than the ones already mentioned?

By the Witness: No, other than the numbers which we stamped on ourselves.

By the Prosecutor: Is there any way that you can identify the pliers as belonging to the Regiment?

By the Witness: They have the Canadian Army stamp.

By the Prosecutor: Are they issued to anyone else?

By the Witness: Not the same type of pliers. The pioneers and Motor Transport have a different type issued to them.

By the Prosecutor: Is there any reason why a member of the Intelligence Section should have possession of a pair of these pliers?

By the Witness: No, sir.

By the Prosecutor: Was that pair issued to them?

By the Witness: No, sir.

By the Prosecutor: Under what circumstances were these pliers brought to your attention?

By the Witness: Some person's kit was brought in by Sgt. Adams and these pliers were among the kit, and I asked Sgt. Adams if I might have these pliers as they are mine. He gave them to me with the understanding that I should return them to him if they were needed at a future date.

By the Defending Officer: With reference to the stamps on the pliers, would they lead a person to believe that they belonged to the Canadian Army?

By the Witness: Yes, sir.

By the Defending Officer: Is there any way for an ordinary soldier to know that they belonged to the Signal Section?

By the Witness: None, sir.

By the Defending Officer: When did you first miss these pliers?

By the Witness: I can't give you that at all, but we do keep records of each pair of pliers, and when they are lost.

By the Defending Officer: Do you know ~~me~~ if these pliers were missing from your platoon stores?

By the Witness: I can't give you that without a look at the records.

By the Defending Officer: The first time you knew they were missing was when ~~Sgt.~~ Sgt. Adams had them in that kit?

By the Witness: Yes, sir.

(Witness Retired)

Fourth Witness for the Prosecution is called and duly sworn.

By the witness: I am L/Cpl. E.A. Wilton, A-21319, Bn Bq. The Essex Scottish Regiment.

By the Prosecutor: Before questioning L/Cpl. Wilton, I should to have the fourth charge amended in so far as the

items listed are concerned, the amendment is as follows: Blankets, one, struck off; sheets, ground left in, value ten shillings; Helmet, steel, one, struck off; Badges, cap, left in; value six pence; Towels hand, two, struck off; Forks, one, struck off; Blouses, B.D., 1 value £1.2.6; Trousers, B.D., pair, one, value £1.0.6, Spoons table, struck off; Shirts, cotton, khaki, 1, value 4 shillings, half-penny; Shirts, cotton, struck off; Shirts, flannel, one, value nine shillings fivepence; Knives clasp one, value two shillings tenpence; Dressing, field struck off.

By the Court: Have you totaled the value of the whole lot?

By the Prosecutor: Three pounds, ten shillings, fivepence halfpenny.

By the Prosecutor: L/Opl. Wilton, what is your job in the Battalion?

By the Witness: I am Acting Quartermaster Sergeant for Battalion Headquarters.

By the Prosecutor: As Acting Quartermaster Sergeant, what are your duties?

By the Witness: Feeding Battalion Orderly Room, and issuing clothing and equipment.

By the Prosecutor: You are responsible for issuing equipment?

By the Witness: Yes, sir.

By the Prosecutor: You know the accused?

By the Witness: Yes, sir.

By the Prosecutor: He had equipment issued by you?

By the Witness: Yes, sir.

By the Prosecutor: Have you his M.F.C. 800?

By the Witness: Yes, sir.

(MFC 800 of Pte. Everts was handed to the Court, and entered in the Court Records as 'P.G.')

By the Prosecutor: You, - believe, in the last month, have been given some equipment belonging to the Accused, and I believe that at a subsequent date, either yesterday or the day before, you were asked to check it?

By the Witness: Yes, sir.

By the Prosecutor: Tell us what you found.

By the Witness: When I first got his kit, there was an original list of what was missing, and they asked me to check the kit he had. He received some more stuff, and I don't know where from.

By the Prosecutor: Having checked the equipment, what are the items now deficient?

By the Witness: Sheets, ground 1, value ten shillings; cap badge, 1, value sixpence; blouse, B.D. value £1.2.6;

Trousers, B.D., 1 value £1.0.6; Shirts, cotton khaki, one value 4 shillings, half-penny; shirts flannel value nine shillings fivepence; knives clasp, one value two shillings tenpence; total value of the lot Three pounds, ten shillings and fivepence halfpenny.

By the Prosecutor: L/Cpl. Wilton, where did you get the value of these items from?

By the Witness: From the official price list.

By the Prosecutor: You checked them yourself?

By the Witness: Yes, sir.

By the Defending Officer: No questions.

(Witness Retired, and a Recess of ten minutes called)

(Court re-opened.)

By the Court: ^{to the accused} At this stage of the proceedings, the case for the Prosecution is closed. Do you intend to give evidence on oath yourself, or to call any other witnesses? You are not obliged to give evidence under oath unless you wish. You may make a statement with no cross-examination. If you give evidence under oath it will carry more weight with the Court.

By the Accused: I don't intend to give evidence under oath, but I intend to make a statement.

By the Court: Do you intend to call any witnesses?

By the Accused: No, sir.

By the Court: Very well.

By the Defending Officer: I have a statement of character from Pte. Everts' platoon commander. Is this the proper time to bring it up?

By the Court: The Platoon Commander will have to be here himself.

By the Defending Officer: I understand not, sir.

By the Court: Have you some authority?

By the Defending Officer:

No, sir.

By the Prosecutor: I have no objections to that being put in.

By the Court: May I see the statement of character?

The Statement of Character from Accused's platoon commander is handed to the President of the Court.

By the Defending Officer: I might say that the reason that the Accused's platoon commander is not here, is that I have only had since yesterday to prepare the case, and I didn't get around to seeing the Platoon Commander until yesterday. At which time he had already made plans which prevented him from appearing in person today.

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an intention on the part of the offender either not to return to His Majesty's service at all, or to escape some particular important service as mentioned in para. 20; and a soldier must not be charged with desertion or attempted desertion unless it appears that some such intention existed. Further, even assuming that he is charged with desertion, the court that tries him should not find him guilty of desertion, unless fully satisfied on the evidence that he has been guilty of desertion as above defined." I don't think that from the evidence of the prosecutor that it has been found that Pte. Everts definitely left the Regiment with any intention of quitting his Majesty's Forces. I feel that all they prove that Provost Sergeant Adams went to Lewes to identify Everts, and there doesn't appear to be any direct evidence that Everts was in civvies when he was apprehended, and generally throughout, I don't see where the intention to desert might be brought in. He had papers in his possession, but they are all perfectly legitimate, because the defendant's name is Marshall, and it would appear -

By the Prosecutor: Was that brought out in the evidence?

By the Court: It is all right.

By the Prosecutor: Was that brought out by the accused?

By the Court: Yes.

By the Court: How do you account for the fact that his name is now Marshall? *Everts?*

By the ~~Prosecutor~~ Defending Officer: His mother married again, to a man by the name of Marshall, and when in the Canadian Army, the Accused reverted to his original name of Everts.

By the Court: The christian names are different too.

By the Defending Officer: I don't know the circumstances.

By the Defending Officer: With regard to that first charge, I believe that the most that can be proven is absence without leave for two days, and I don't see any evidence that can convict him of desertion. With regard to the charge of stealing the bicycle, on page 118 of the Manual of Military Law in Para 51, "If the 'owner' consents to the taking, there is no theft; but consent obtained by force or fraud will be no defence. In this connection, however, it is important to distinguish between a transfer of 'possession' only, and a transfer of 'property' in the goods taken. If a by false pretences induces B to give him possession only of an article, and then without B's consent appropriates it to himself, this is 'theft'." As Sgt. Platt stated in his evidence, the bicycle was left at the Intelligence Section C.P. for their use, and it was not necessary for anyone to get permission in order to take the bicycle, and when it was taken it was perfectly legal, and there was no offence committed. In order to prove that he was stealing the bicycle,

it has to be proven that he intended to take it away and not return it. I heard no evidence to prove that he did not intend to return it. With regard to the charge of the pliers, I think it has been proven that a person in Everts' position would have no way of knowing that the pliers belonged to the Signal Section and not only to the Battalion, but also to the Canadian Army, as the 'C' is obliterated, and might be missed. There has been no evidence given that the pliers might not have belonged to the bicycle kit, and a person using the bicycle would have no reason to believe that the pliers did not belong to the bicycle kit. To sum up all the charges. The first is the main one, and on all charges I should like to submit that not sufficient evidence has been produced to show that Everts intended to desert. He might have intended to go A.W.L., but he did not intend to quit His Majesty's services all together. The second charge, he might have mis-used the bicycle, but I don't think he can be found guilty of stealing. On the third charge, I don't think any evidence has been represented to us that the pliers might not have been part of the bicycle's equipment.

The Court calls the Prosecutor.

By the Prosecutor: With reference to the first charge. The Defending Officer is quite correct as to the difference between desertion and absence without leave being intention. It is not possible for the prosecution to prove actually what the Accused was thinking at the time he goes absent, and the only way we can judge his intention is by his actions. I might refer you to The Green Book, Page 13, Para 'a' "The existence or otherwise of this intention may be decided by the natural inferences to be drawn from the circumstances proved in evidence, e.g., length of absence (though this by itself is seldom conclusive), distance from his unit, the circumstances and locality of his arrest or surrender. The possession of his arms, equipment, papers and other marks of identity would be relevant considerations. Disguise or evasion of interrogation would be most material, and the wearing of uniform or plain clothes might be of great or less importance according to the Rules in force." I should first like to refer you to Exhibit 'P.2' which is a descriptive return of R.L.W. Everts, and I would refer you to the Manual of Military Law, Page 529, Para 'm', "Where an officer or soldier has been apprehended and on arrest taken to a police station in any place in any part of His Majesty's dominions, or has on surrender been taken into custody at any such police station, then, for the purpose of any proceedings against that officer or soldier, a certificate purporting to be signed by the police officer in charge of that police station stating the fact, date and place of arrest or surrender, shall be evidence of the matters so stated." The descriptive return states, and signed by Pte. Everts, Sergeant Leader and by the Magistrate of the Court, that "the accused was arrested in a cafe, that he was dressed in civilian clothes wearing boots, and he denied being a deserter or absentee, and he later was identified by Sgt. Adams". I have another reference air that deals with the descriptive return of deserters.

By the Court: Para 12 deals with civilian clothes which is quite all right.

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By the Prosecutor: I might submit that the other particulars so stated in the descriptive return are all ~~relevant~~ relevant and are quite proper that they are particulars which in essence are the same as the statement as to his dress. ~~Substantive~~

By the Court: But we have no evidence as to whether the bicycle was found in his possession. It may be evidence for what its worth.

By the Prosecutor: Might I suggest that the police's statement should not be treated as an admission by the accused?

By the Court: This statement is only admitted for very definite purposes. You ~~are~~ accepting evidence without the police being here to back up what they say. The circumstances of his apprehension and refusal to admit the admission might be prejudicial to him at the time.

By the Prosecutor: I submit that all they have are confessions by Adams.

By the Court: It is before the Court, and we will judge it accordingly, bearing that fact in mind.

By the Prosecutor: May I have the opportunity of continuing with that evidence? It is important to me.

By the Court: Yes.

By the Prosecutor: The only purpose was to obviate the necessity of bringing some witness for some distance and as it was signed by the Convening Magistrate, and as the return submitted to the Court, it is prepared evidence for the Court.

By the Prosecutor: In addition to the form you have there, the Accused's counsel admits that there is not dispute about the papers that we submitted to the Court, being the property of the Accused, while the officer who took them from him is not here in court. And so far as papers are concerned, so far as intention is concerned, all the papers save two refer to one R.E. Marshall, and they would lead any person coming in contact with him, and he could make out that he is a person who is not in the American forces, and if he were judged as a person properly identified by a person as Marshall, and a pass issued to one Marshall. I might also add that the paybook of the said accused was not with him at the time he was apprehended, and also the letter referred to in his statement is not amongst those documents, even though that letter was referred to as being a letter that created the duress under which the Accused had absented himself without leave or absented himself from the Battalion, and I believe that the facts that are before the Court are very strongly evident that there was no intention of returning to His Majesty's Forces. If there had been an intention to return, I suggest that the paybook might have been with the soldier. If there had been an intention to return, he would not have denied that

By the Court: Pte. Everts, the Court has found you Not Guilty on the Second Charge. Have you anything further to say?

The Accused's name is duly sworn and
The statement of Character and Particulars of Service of the Accused is read by the Prosecutor: No A-22221, Name: Everts, R.L.W., Unit: The Essex Scottish Regiment; Age: 26; Date of Attestation: 13 May 40; No. of days spent in close arrest (to date of trial): Civil - 10; Military - 16; Hospital - Nil; Total: - 26; Dates of promotions, appointments and confirmation of rank if any - nil.

The Statement of Character and Particulars of Service of the Accused, together with a certified true copy of M.F.M. 6 are handed to the Court there to be entered in the Court Records as 'P.M.' and 'P.S.', respectively.

By the ~~Prosecutor~~ Court. Have you personally checked the Statement of Character and Particulars of Service of the Accused, and found them to correspond with the Unit records?

By the Prosecutor: Yes, sir.

By the Court: Have you personally compared this copy of MFM 6, with the original, and found it to be correct?

By the Prosecutor: Yes, sir.

Lieut. McGregor, Defending Officer, presents himself as a witness for the Accused, and is duly sworn.

By the Witness: Back in Aldershot, sir, while acting second-in-command of the Company, I had occasion to ask Pte. Everts to address the Company on different subjects. At that time he was one of the best men in the Intelligence section, and he was regarded by everyone as a very intelligent chap, and one very interested in his work, and a very good example. He must have done a terrific amount of outside reading, and we felt that he was an excellent man.

By the Court: Everts, have you yourself anything further to say?

By the Accused: No, sir; none other than what I have already said, *I had a poor trial.*

(Court is closed for the consideration of sentence).

The above transcript is not complete or entirely accurate. I have made certain corrections which I have obtained some of them from the prosecutor and counsel for presentation and approval by their signatures below to such corrections.

I CERTIFY THAT the above evidence is a true and correct transcript of my shorthand notes.

800906
1st BR. THESSAL. REGIMENT OF CANADA.

[Handwritten signatures and initials]
L. C. P. Ryan
D. P. [unclear]
[unclear]

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ABSTRACT OF EVIDENCE

In the case of A-22221, Pte. Everts, R.L.W., 1st Battalion,
The Essex Scottish Regiment, Canadian Army (Overseas).

FIRST WITNESS: A-21814, Sgt. Flatt, A.W.C., states:-

"I am Sergeant of the Intelligence Section to which Pte. Everts is posted. At Rye, Sussex, on 30 Jul 41 I warned Pte. Everts that he had been detailed to proceed on a Snipers' Exercise Course at Bordon, Hants, 1 Aug 41, and that he would move by M.T. at 0900 hrs that date to the Snipers' School from Saltcote Place, Rye, the En. H.Q. He was not to be found at the place, at the time on the date stated. Subsequently I learned that he had left his quarters on bicycle T23600 on charge to the Intelligence Section. He has been A.W.L. from that time on that date."

SECOND WITNESS: A-21108, Provost Sergeant, Adams, R.J., states:-

"I am Provost Sergeant of the Essex Scottish Regiment, C.A.(O's). On 5 Aug 41, on instructions of the Adjutant, I proceeded to Lewes, Sussex, Police Station, where I was shown a photograph of A-22221, Pte. Everts, R.L.W. and a bicycle bearing the number T23600, which bore a tag labelled "A-22221, Pte. Everts, R.L.W. I saw Pte. Everts in person and identified him. On 12 Aug 41 I again attended at Lewes, Sussex, and the Court of Petty Sessions where I heard Pte. Everts admit that he was an absentee without leave from the Essex Scottish Regiment. Pte. Everts was on that occasion handed into my custody together with a "Descriptive Return of an Absentee", hereto attached and a pair of pliers #25, allegedly taken from Pte. Everts."

THIRD WITNESS: Lieut. J.C. Brick, states:-

"I am the Signal Officer of the Essex Scottish Regiment. I identify the pliers shown to me bearing the number 25 as equipment on charge to the Signal Section of the Essex Scottish Regiment and which has been missing for some time."

FOURTH WITNESS: A-21319, L/Cpl. Wilton, E., states:-

"I am the N.C.O. in charge of stores for En. H.Q., The Essex Scottish Regiment. Pte Everts was issued with the following articles of equipment of which he was deficient on 15 Aug 41:-

Blankets - 1; Sheets, ground - 1; Helmets, steel - 1;
Badges, capp - 1; Trousers, S.D., pairs - 2;
Blouses, S.D. - 2; Towels, hand-2; Shirts, cotton -1;
Shirts, flannel, -1; Knives, clasp - 1; Knives, table - 1;
Forks - 1; Dressings, field - 1;

FIFTH WITNESS: Detective-Sergeant S. Leader states:-

"The soldier now identified as A-22221, Pte. Everts, R.L.W., was taken into custody by the Lewes, Sussex, police on 2 Aug 41, at 1745 hrs. At that time he had in his possession a pair of pliers bearing the number "25". The statement attached was made by Pte Everts on 3 Aug 41 and signed by him in my presence. On 2 Aug 41 Pte. Everts was in possession of bicycle #T23600."

I certify this to be a true copy of the original abstract as prepared by Lieut. J.R. Turnbull and submitted to the Officer Commanding this Unit and to the Brigadier commanding 4 Cdn Inf Bde and duly approved.

Lewes.

Lewes.

Lewes Police Station

1B.30P-

3rd August,

1

MARSHALL, Wilford Basil

25772, Peter Kaitz Road, Centerline, Michigan

Soldier

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" I have been cautioned that I need not say anything unless I wish and I make this statement voluntarily.

I was born in Toledo, OHIO, U.S.A., on the 21st March, 1915. My father is dead and my mother remarried about seven years ago to Glen MARSHALL.

I attended St. Theresa's High School, Detroit, Michigan, where I graduated in 1932 or 1933. I later went to the Sacred Heart Seminary at Detroit until the middle of 1934. I then studied violin until I enlisted in the U.S. Army on the 3rd May, 1936.

I remained in the U.S. Army until May 25, 1938, after which I was discharged on completion of term of enlistment.

I went to New York City, arriving two days later where I put in an application for the U.S. Navy at Brooklyn Federal Building. While waiting for my being called up I found a job with Duff & Conger, Inc., of Madison Avenue, New York City and whilst there I received the letter enclosing the photos and descriptions of the three Austrians found in my possession. I do not know these persons. This letter was addressed to Bruno Thieman. As there was no one in the apartment house where I worked of by this name and no forwarding address I opened it with intentions of sealing it and sending it back marked "Not at this address". When I saw what the letter contained I decided to keep it as my keeping it affected no one really and it made good material for writing at a future date.

I worked at "Duff & Congers" for several months, after which I returned to the Detroit Federal Building, after which I re-enlisted in the U.S. Army. I also started the Reserve Officers' Course. I served there at Selfridge Field, Michigan and was later transferred to the 2nd U.S. Infantry at Fort Wayne, Detroit.

Later I decided to try and get to England and enlist in the Royal Navy or Merchant Marine, so I left the U.S. Army on the 4th April 1941, after which I worked at the Woodward Avenue Market, Detroit, for a time and saved 200 dollars.

Being absent from the U.S. Army I could not apply for a pass port without being caught and I doubted if I could have got one owing to war conditions.

Knowing that to leave an American Port would lead to my apprehension and it would look like a pure case of desertion, I decided to go to Canada and find out which port it was all the ships were leaving for England.

I found that Halifax, N.S., was doing shipping for all the world and I decided that it was a logical place to leave from because I knew that if I was caught trying to get to England without a pass-port it would be a simple for the Authorities to check up on me. The problem was how to get passage so I struck up acquaintance with a few sailors in the Merchant Marine in some of the waterfront cafes.

I finally got a sailor who was drinking quite heavily and asked him what ship he was on. I wanted to make sure that he was going back to England. He would not tell me any details after which I laughed and told him that I wasn't a spy and that I was merely trying to get to England to join the Royal Navy. As he was in port a few days I did not broach the subject of "stowing away" until a few nights later when I could see by his manner that the boat would soon be pulling out. As I knew the Mercantile Marine were fairly well

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paid I considered what sum would seem agreeable if he accepted. So, after buying a few drinks, I took out 75 dollars and put it in his hand and told him that I wanted to get to England. I showed him all of my papers to prove that I was not dangerous, but patriotic. He decided, during the course of conversation, that he would get me aboard.

I asked him what the name of the ship was again and how ship-worthy she was but he said it didn't make any difference, it was the "San -----" something. He said, "What difference does it make so long as you get across?"

So on the evening the boat was supposed to pull out I walked aboard wearing a white uniform and carrying a couple of baskets. He got on the boat first and when he saw that no one was noticing me he led me down to the stern of the ship and hid me in a large wardrobe or closet affair. He went away and told me he would see me later. As soon as he left me I got into my own clothes.

While I was on board I was kept concealed but I did not know that she was weighing anchor and moving out. I don't remember the date but I think it was about the 10th June, 1941. Later that evening this sailor brought me some whiskey and a sandwich. He then asked me if I would keep quiet and take things easy and that if I was caught at any time not to implicate him. He told me that he thought that I was all right and not a spy and that was the only reason he was doing this for me.

When I first gave him the 75 dollars he refused it but after a few more drinks he finally wanted to accept it but after trying to find out the name of the ship for writing purposes later on I could see that he did not trust me any too much - so I did not trust him any too much. I gave him 25 dollars and promised him the other 50 when we docked. All this took place in the cafe on the water front to which I have already referred.

I asked this sailor his name on several occasions. He told me to call him "Joe". He was about 5'7-8" in height, age about 40, face ruddy, rather long, pale blue eyes, big boned, slightly broad-shouldered tattooed on right arm with a heart, on the left arm the Union Jack. He spoke with an English accent and wore a white jacket over his blue serge jacket. He visited me several times each day and brought me food and drink.

After we had been at sea for about 3 weeks he told me that he was not sure that we were going to England but assured me that we should land at a British possession. Some days later he told me that we were going to England.

We eventually arrived at Cardiff. "Joe" coached me as to what to expect and gave me a steward's uniform and a pair of trousers. About 4 or 5 hours after we had docked he came to me and told me that it was all right to go ashore.

It was nearly dark. We went off the ship by a gang plank lower than the main gangway. As we reached the barrier there were two police in uniform. "Joe" put his hand in his pocket as if to produce his identification. The police nodded and we went by. I was carrying two baskets in which I had my civilian clothing.

Once outside the dock area I changed into my civilian clothes. I paid Joe the 50 dollars I had promised. We parted company and I have not seen him since.

I did not see the name on the ship. She was not a very large ship, slightly bigger than a lake-ferighter which are as long as an ocean-going boat. I think she had two funnels.

I made my way to London. I had 100 dollars in British money and 25 dollars in American money. I arrived in London on about the 3rd July, 1941. I went to a small hotel ~~KIKKX~~ in Southampton Row. I stayed for one night. I signed the hotel register in my proper name.

I walked around London the next day. It was the 4th July, 1941. I spent a lot of money that night and met a number of people. The next night I went to a club in Soho. I spent most of the next few nights in clubs but as my money was going rather quickly I had to sleep in Air Raid Shelters. I did not want to stay at hotels as they asked too many questions.

I walked all over London looking for a job. My shoes became worn. I bought the boots I am now wearing from a Canadian soldier near

Wimbledon. I paid him 7/-.

After I got the boots I heard that a convoy was coming in so I headed towards Brighton.

I went by train from Surbiton to Reigate arriving about 9.30 p.m. I slept in an Air raid shelter that night. The next morning, which would be the 28th July, 1941, I went back into Reigate. I went in to a cafe and had some toast, coffee and some cakes. When I came out I took a black bicycle with a three speed gear. A civilian left it outside of a small shop.

I made off to some small town nearby and eventually reached Rye about 10 a.m. I got some food in a cafe. I was coming out when I noticed a soldier coming up on a cycle. It had a box tied on the carrier. He left his cycle outside this cafe. I got on it and rode away.

I went to Winchelsea and made towards Brighton. I arrived at Eastbourne late that evening. I went to a cinema and saw a film called "Four Mothers". I stayed the night in an Air raid shelter. The next night I stayed in a bomb-damaged house near the waterfront.

Yesterday morning, after breakfast, I left Eastbourne. I stopped at several cafes including "Drusilles". I had a pot of tea and cakes there.

I came into Lewes arriving at about 3 p.m. I left the Army cycle I had taken from Rye at the top end of Lewes. I then walked back into Lewes and went into the "Thomas Paine" tea room where I was subsequently arrested.

(signed) Wilford B. Marshall

14
 DESCRIPTIVE RETURN OF Robert L.W. EVERTS who
 was arrested at Lewes (hour) 5.45pm the 2nd August, day
 of 1941, and was committed to confinement at
 on the _____ day of _____ as a ~~Deserter~~ (or Absentee without
 leave) from the _____ Bn, of the Essex Scottish Regiment
 Regiment of Essex, Sussex.

Age 28 Height 5' 7" foot _____ inches
 Complexion Fresh Hair dk. brown Eyes Brown
 Marks Face pocked. In uniform or plain clothes. Plain clothes.

Probable date and place of attestation Spring 1940. Windsor, Ontario.

Probable date of desertion or beginning of absence and from what place. 00.30hrs. 1st August, 1941.

Name, occupation and address of the person by whom or through whose means the Deserter or Absentee without leave was apprehended and secured. Det/Sergt. Leader. East Sussex Constabulary, Lewes.

Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.

* Was arrested in a cafe as he was dressed in civilian clothes, wearing boots. Was detained as a suspected person. An army cycle was traced to his possession. He denied being a deserter or absentee but was later identified by Sergt. of his unit.

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he is an absentee the before-mentioned Corps.

J. S. Blundell Signature
Higfields Residence
East Chilmington Post Town
12th August 1941 Date of Signature

Magistrate.

Robert L.W. Everts Signature of Prisoner
Sydney Leader, D.S. Signature of Informant

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming.

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the _____ day of _____ for the purpose of obtaining such evidence.

 Signature

 Residence

 Post Town

 Date of Signature

Magistrate.

- † Care should be taken to insert Army No. and Rank.
 † Insert "was apprehended" or "surrendered," as the case may be.
 † It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
 † Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to," as the case may be.

Michigan N.Y.A.

D1
Affiliated
New York



Robert L.W. Everke, A 22221.
Battalion Orderly Room,
Essex Scottish Regt.
Canadian Army, (Overseas)
c/o Base Post office Canada,

D. J. ~~Wentworth~~ ^{Wentworth} ~~Wentworth~~ ^{Wentworth} July 10-41
Centerline Truck,

Dearest Son:

I am going to try
and write to you this a.m.
its now 7 o'clock and Mother
and Sylvia is still in bed
I've wanted to write to
you since last Friday but
seem I just couldn't of
course I told you I was
going blind and some
day my vision is so cloudy
I can't see to write - and
I must wait till I have
a clearer vision till I can
write, Ten years ago today
we laid my dear old Dad
in his last resting place,
and since the 6 of July my

memories are quite mixed
up. And what a two year
it has been for me. We mailed
you out a parcel July 5-4
and I am sending
you a slip of contents of
your parcel. Perhaps you
know by this time Dad
has been in an accident
smashed front of our car
up it is now in a garage
it will cost \$56.75 for repairs
- and it seems like a prison
without a car here we
can't get anywhere so we
have been unable to see
about three books for you
and the pup tent as yet

will as soon as possible
 will also send to that
 firm in Canada for Cigarettes
 for you. We'll mail another
 parcel Sat July 12-41. July,
 19th will be Jimmie's Birthday
 he'll be 10 years old. Will guess
 you have your wish as
 Uncle Sam's navy are in
 Iceland - Greenland. Gee
 how I wish all this trouble
 and uncertain war was over.
 Everything is coming up in
 prices except wages. We rec'd
 your transatlantic air mail
 that you mailed out June 20
 from London. July 5-41. We
 are wondering if you have

Rec'd our letter sent same
date June 20-41 Transatlantic
air mail containing \$2.00 Hope you
let us know as soon as you
receive it also mailed a Parcel
that date, What a relief to
know you rec'd your watch
O.K. I suppose you have
rec'd your suit shirts. We
are thin hope you'll like
shirts tie-socks. O.K. As you
will see by Sylvia's letter
that she is home for at least
a week think Geo will
come right from work Sat
and then he'll take her back
home Sunday. She is doing as
good as can be expected of course
she can't do a thing as yet

we will be very glad to
get the picture promised us.
Well again by a ocean of
love to you and god bless
you and bring you safely
back to us.

Loveingly your Mom - Dad

P.S. may I suggest dearest
perhaps if you could Rec'd
holy communion and ask
god to give me my sight
it may possibly help me,
Thank you,

up they even charge more
on Canadian money it
cost me \$300 to cash the \$20.00
and I do the very best
I know how with it.
Suppose you have rec'd
the last 3 nice pair of silk
hose eh? Well guess I will
close for this time hoping
you are well and as happy
as can be my darling boy.
Glad to know your girl
friends are nice but don't
let any of them trick
you perhaps promise to come
to America when war is
over then refuse to come as
my dear boy I am trying

soon we get our car to get
around where we want
to go, We have enquired all
over for the kind of butter
you mentioned but hasn't
been able to find any butter
sealed in tin cans and any
butter not sealed or tight
and vacuum packed would
not keep that long we
had Dick ask his Brother
that has a dairy about it
and they never heard about
it but dad said when we
have our car again we'll
go to the Broadway market
and Enquire there, Talk
about over it.

and I do want her to take
good care of her self. Mother
isn't feeling so good this A.M.
She will be 80 years old Aug 4.
and Robert will be 4 years
old Aug 5. Ted and family
is O.K. she's as fat as ever and
same El. cares only for her self.
But sometime we had a notion
to sell this place and buy
somewhere else. what would you
think about that. We have
taken out a F & A loan and
have put that new brick on
Color Buff. And believe me done
with that loan and former
loan on house big loan on
car and furniture we have all

we can do. And its costing so
much for me Monday I was
to the Dr and it cost me
3.75 at Dr that including shot
and cost 1.20 for medicine for
my eyes one drop per day and
then Dr Barker I am doctor-
ing with want me to go to
an eye specialist he knows
very well in Mount Clemens
and that will cost another
\$ 5.00 he wants me to go to
that eye Dr as he thinks they
may work together and
prolong my sight I have
been doctoring with Dr Martin
for my eyes. So I am
going to Mount Clemens as

of love to our baby boy.
Regardless you'll always
be my baby. We have one
enlargement of your picture
in your Canadian uniform
standing by your tent on
my desk in living room
have your picture like ^{the one} ~~the one~~
large picture of you framed
and an holy Rosary on it
on our chest of drawers
and the enlarge picture
you gave me for Christmas
when we were living in
Chere is on our chest of drawers
So you see dearest we
can see you wherever we
go from room to room but

It hard to hang on till
 your return, I want to
 see you back well and
 happy is our dearest wish
 and dearest do take care
 of your self. Let me know
 if there any thing we
 send at any time you
 don't want of course such
 as Sardines I don't imagine
 you care much for that but
 some time it is necessary
 for packing like soap if
 you get to much perhaps
 some of the boys would be
 glad to give you something
 in return for it. Well darling
 will say by by with love

D-7
Officer in Charge

Major Mes

1st Bn. The Essex Scottish Regt
C.A. (10/12)
Somerset - Devon - England
20-8-41

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P.H. Events - Statement of Character

To whom it may concern:-

The supra man served in the Intelligence Section of the Essex Sect under my command from January 1941 to June 1941 during which time he served me well and faithfully. At no time was his conduct or his attitude to his work other than might be expected from an exceptionally good soldier. In fact I did on several occasions hold up to the section, both he and his work as an example of what I considered a fine Intelligence type of soldier.

In some things he was slow to grasp the point and his knowledge of weapons was weak but for good honest effort and continuous application to duty I could not wish for a better soldier all the time he was under my command.

He did a tremendous amount of reading when off duty on matters pertaining to his work, was always ready and eager to work and seemed most determined to better his position as a soldier and to do a good job in the army.

John P. Lusk
(S. 10010 10. CORN 11)
Carrier Off. Essex Sect.

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Approved by
the

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(Substitute for A.F.B. 296)
or M.F.B. 355

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

NO. A-22221 NAME Pte. EVERTS, R.L.W. UNIT The Essex Scottish Regiment

AGE 26 MARRIED OR SINGLE Single NO. OF DEPENDENTS None

DATE OF ATTESTATION 15th May 40

NO. OF DAYS KEPT IN CLOSE ARREST (TO DATE OF TRIAL)

CIVIL 10 MILITARY 16 HOSPITAL 0 TOTAL 16

DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATION OF RANK, IF ANY
NIL

A CERTIFIED TRUE COPY OF M.F.B. 5 MUST ACCOMPANY THIS FORM

(Officer in Charge)
Oliver Unit

Dated at: Gamberley

This 28th day of AUGUST 1941

(To be dated and signed as of date of trial)

PPP-20

PTL EVOY F

SCHEDULE.

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

Accused: C-79135 Pte François EVOY, Lorne Scots, 11 CBR Bn

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

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

As provided under sentence for _____ (1) (2) (3) (4) (5) (6) (7) (8) (9) (10) (11) (12) (13) (14) (15) (16) (17) (18) (19) (20) (21) (22) (23) (24) (25) (26) (27) (28) (29) (30) (31) (32) (33) (34) (35) (36) (37) (38) (39) (40) (41) (42) (43) (44) (45) (46) (47) (48) (49) (50) (51) (52) (53) (54) (55) (56) (57) (58) (59) (60) (61) (62) (63) (64) (65) (66) (67) (68) (69) (70) (71) (72) (73) (74) (75) (76) (77) (78) (79) (80) (81) (82) (83) (84) (85) (86) (87) (88) (89) (90) (91) (92) (93) (94) (95) (96) (97) (98) (99) (100)

Time in confinement awaiting present trial—a total of 16 days, of which 11 days were spent in hospital. (1) (2) (3) (4) (5) (6) (7) (8) (9) (10) (11) (12) (13) (14) (15) (16) (17) (18) (19) (20) (21) (22) (23) (24) (25) (26) (27) (28) (29) (30) (31) (32) (33) (34) (35) (36) (37) (38) (39) (40) (41) (42) (43) (44) (45) (46) (47) (48) (49) (50) (51) (52) (53) (54) (55) (56) (57) (58) (59) (60) (61) (62) (63) (64) (65) (66) (67) (68) (69) (70) (71) (72) (73) (74) (75) (76) (77) (78) (79) (80) (81) (82) (83) (84) (85) (86) (87) (88) (89) (90) (91) (92) (93) (94) (95) (96) (97) (98) (99) (100)

Sentence Awarded by the Court:

to undergo detention for ninety days.

(Sgd) _____ Date awarded: 16 June 44 (Sgd) _____ (Sgd) _____
Judge-Advocate, if any. (See back of Convening Order as to assembly and disposal of record after trial.)

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

Date _____ (Sgd) _____ Commanding _____

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

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

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

Confirmed

I deem that the accused be not committed to prison or detention barracks until further orders. (1) (2) (3) (4) (5) (6) (7) (8) (9) (10) (11) (12) (13) (14) (15) (16) (17) (18) (19) (20) (21) (22) (23) (24) (25) (26) (27) (28) (29) (30) (31) (32) (33) (34) (35) (36) (37) (38) (39) (40) (41) (42) (43) (44) (45) (46) (47) (48) (49) (50) (51) (52) (53) (54) (55) (56) (57) (58) (59) (60) (61) (62) (63) (64) (65) (66) (67) (68) (69) (70) (71) (72) (73) (74) (75) (76) (77) (78) (79) (80) (81) (82) (83) (84) (85) (86) (87) (88) (89) (90) (91) (92) (93) (94) (95) (96) (97) (98) (99) (100)

Date: 19 Jun 44 (Sgd) _____
Commanding _____

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

Accused: C-79135 = Pte Francis Crov Date: 20 June 44 Signature of Offr: _____
Commanding _____

ALL DELETIONS AND ALTERATIONS WILL BE INITIALED.

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig G Francoeur Comd 2 CBRG dated 15 JUN 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 306, 328, 330.)

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

C-79135 Pte Francoeur EVOY

PROCEEDINGS REVIEWED

27 Jun 44
PROCEEDINGS OF TRIAL.

REVIEWING OFFICER, JAG BRANCH _____ on (date(s)) 16 JUN 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALED BY PRES DE JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of each variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 495. For notes and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

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

(1. As to use of Summary of Evidence see RP 17 to 5. 2. AA 49, 50, RP 103-107. 3. RP 11-13, 22, 24.)

A3. The Court is opened. The accused is ~~sent~~ brought before the Court. At 10:20 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial instead of being dealt with summarily by the C.M.C. (1) KR Can 537. 2. AA 46(B), RP 60 to 1. For text see KR Can 543(C). Delete, if not applicable.

As President to accused: Do you object to _____ as interpreter? Ans _____

As interpreter to accused: Do you object to _____ as shorthand writer? Ans _____

The undersigned writes in French. (1) RP 72. Delete, if none employed.

A5. The Convening Order and names of the President and Members of the Court are read to the accused. (1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans: No. (2) (1. RP 115. 4. If no objection, writing number refers. RP 60(B). If objection, see procedure AA 51, RP 21, 71, 18, MML p 742.)

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

President	Major	M G CLENNETT	West NSR, 11 CBR Bn
Member	1st Lt	J P Hysell	18 CBR Bn
Member	1st Lt	H Tobin	11 CBR Bn
Judge-Advocate			
Prosecutor	1st Lt	R H Godenough	11 CBR Bn
Defending Offr	1st Lt	J E Heston	11 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans: No. Is the Defending Offr a lawyer? Ans: Yes. (1) (2. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Court Offr.)

A8. The accused: C-79135 Pte Francis Crov before arraignment (make) (no) (1) (2) (3) (4) (5) (6) (7) (8) (9) (10) (11) (12) (13) (14) (15) (16) (17) (18) (19) (20) (21) (22) (23) (24) (25) (26) (27) (28) (29) (30) (31) (32) (33) (34) (35) (36) (37) (38) (39) (40) (41) (42) (43) (44) (45) (46) (47) (48) (49) (50) (51) (52) (53) (54) (55) (56) (57) (58) (59) (60) (61) (62) (63) (64) (65) (66) (67) (68) (69) (70) (71) (72) (73) (74) (75) (76) (77) (78) (79) (80) (81) (82) (83) (84) (85) (86) (87) (88) (89) (90) (91) (92) (93) (94) (95) (96) (97) (98) (99) (100)

A9. The accused is ~~is~~ arraigned ~~separately~~ on all charges in the charge sheet. (1) The accused does (do) not object to any charge. (2) There is no amendment to be made to the Charge Sheet. (3) The President records the pleas in Part I of the Schedule. (1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 31(C), and use separate copies of CF 495 to record proceedings. 2. RP 21, RP 31. If otherwise, delete and make appropriate record per sign.)

A10. The Court ~~is~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form: 13.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

3. As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Officer see RP 60(C), 87(C), 91, 92; answering and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(F), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc. see RP 75-79, 86, 110; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.

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

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

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(3) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(4), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(5), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No. (1) RP 37(B), (2) RP 37(D) fn 4, (3) RP 35(B) fn 5 para 1, MML p 24 para 4, (4) See para E3 of Record Form E.

B3. The Court considers the accused's statement(4) The Court decides (not) to advise accused to change his plea(s) from Guilty to Not Guilty on charge(s). The accused is (not) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly. (1) Court may be closed to consider the statement. Delete whole or part not used.

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

B5. The Summary of Evidence is marked Ex A, initialed and read aloud by the President.(2)

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. No. Do you intend to call witnesses on your behalf? Ans. No. Are they witnesses as to character only? Ans. No. (1) RP 115, (2) RP 40(A), see 80(D), (3) RP 40 fn 10, (4) RP 40 fn 2, 3.

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

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

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

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

RECORD FORM E-PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character? (1) Ans. No. (1) If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (2) of Conduct Sheet(s)(3), purporting to refer to the accused, which he submits to the Defending Officer for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 162(a) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(4)

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

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

E5. The Court considers the sentence.(2) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(3)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

W. H. Lewis ^{10/4}
R. S.

C H A R G E S H E E T

The accused C-79175, Pte. FRANCIS EVOY, Lorne Scots, attached to 52 Coy., 11 CBR Bn., a soldier of the Canadian Army Overseas, placed on Active Service, is charged with:

CHARGE: WHEN ON ACTIVE SERVICE - ABSENTING HIMSELF WITHOUT LEAVE

(A. H. Lewis)

in that he

In the Field at 22:0 hrs on 70 April 44 did absent himself without leave from 11 CBR Bn., until apprehended by the Canadian Provost Corps at London on 21:0 hrs 21 May 44. (Total Absence, 70 days, 22 hrs, 40 mins.)

S. H. Logie

In the Field
9 June 1944

.....
(S. H. Logie, A/Lt.-Col.)
Commanding Officer, 11 CBR Bn.
C.A.(C).

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

W. H. Lewis

(G Francoeur) Brig
Cced
2 Cdn Base Rft Gp

In the Field
15 Jun 44

2/2

FIELD GENERAL COURT-MARTIAL

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

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/R or A/Appmt, if any, see AA 182, 183, fn. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-79135	Pte		Frances	EVGY	Lorne Scots, 11 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~been~~ committed the offence set forth in the Charge Sheet(s) attached and on (date) 15 JUN 44 endorsed by me, ~~(as by an offr of my title for him)~~. To be tried by Field General Court-Martial."

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

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

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

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

PRESIDENT.

Major	M G CLENNETT	West NSR,	11 CBR Bn
(Rank)	(Must be named. RP 106.)		(Unit.)

MEMBERS.

Capt	to be detailed by OC 12 CBR Bn	12 CBR Bn
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Lieut	to be detailed by OC 11 CBR Bn	11 CBR Bn
(Rank)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Capt	to be detailed by OC 12 CBR Bn	12 CBR Bn
(Rank)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE ADVOCATE

(Rank)	(Must be named, if any. RP 106.)	(Unit.)
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On Active Service in the FG

in ENGLAND
(Country.)

G Francoeur Brigadier
(Signed personally. RP 105 (n 2).) (Rank.)

Date 15 JUN 44

Commanding 2 CDN BASE RPT QF
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

MEDICAL OFFICERS' CERTIFICATE

(NR(Ord) Form 557)
(GMDQ CL 173)

I certify that I have this day examined G 77 135
(No.)

Plt
(Rank)

Evoy Jr
(Name)

and in my opinion he is

~~unfit~~
fit to undergo trial by Court-Martial.

Station Field

Date 16 6/4

Regallant (Sgd)
Medical Officer
(unit) CCBRBY

Plea in Mitigation
In the Case of
Ste Evoy

myc

The accused joined the Canadian Army on the 7th of April 1942 and in side of two months was overseas. He joined the Lorne Scots and with this unit he was quite happy. However there was but one worry on his mind, and that was his leave situation. He has had but 7 days leave since his arrival in this country, and feels mistreated in this respect.

Finally, he had made in the unit the Lorne Scots, had left for Italy. His punishment at time of absconding himself was not given consideration by Coy. officers or N.C.O's. His record shows him to be of good character and excellent soldier material.

In the opinion of the defence it is essential that the Court consider the events leading up to the crime, and the lack of management shown in this case.

Soldiers do not break good records unless their treatment is such that their spirit and morale is broken as well.

The accused tells me that he is eager to get into action and if the Court shows leniency and grants his request, he will conduct himself as he did prior to this offence, and I might point out that it is his only offence and he will strive to keep it so.

Respectfully Submitted.

J. E. Martin, Lt.
Defending Officer.

ml
Officer under instruction.

St. M. L. Harper. E. S. R.

CHARGE

"A"

Exhibit B

Army Form B 25

(See King's Regulations)

No. 11 C.B.R.B.

Regiment

Battery

Squadron

Troop or

Company

CHARGE against No. C/79135

Rank Pte.

Name Evoy, F.

Place London

Date of Offence 31 May 44

OFFENCE W.O.A.S. was A.W.L.

R. J. Stinson
CAPT.
R. J. STINSON, D.A.P.M.
C.M.H.Q.

Names of Witnesses:—

L/Cpl. Feddie, F.C. No. 6 (Area) Provost Coy,

Cdn. Provost Corps.

L/Cpl. Newbauer, H.C. " do "

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

Punishment }
Awarded }

By whom }
Awarded }

Adjutant.

Statement of EVIDENCE in the case of
C/79135 Pte. Evoy, P.
No. 11 C.B.R.B.

Sir:-

At London on the 31 May 44 at about 2110 hrs. I was on duty on Vauxhall Bridge Road in company with L/Cpl. Newbauer when I saw the a/m soldier.

I approached him and requested to see his leave pass. He could not produce a pass. He was A.W.L.

I placed him under arrest and he was conveyed to No. 6 Provo. Detention Office, where he was handed over to the N.C.C. i/c cells to be detained.

London
31 May 44

F.C. Peddie L/Cpl.
E/25893 F.C. Peddie

Sir:- I have read over and corroborate the above statement.

London
31 May 44

Newbauer L/Cpl.
L/2647 Newbauer, H.C.

REMARKS

"B"

Exhibit "C"

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR.42

I certify that No. *C/79135* . . . Rank. *Pte.* . . . Name. *Evoy, F.* . . .
Unit. *11 C.B.R.B.* . . . was arrested at. *London* . . . (place)

at. *2110* . . . (hour) on. *31 May 44* . . . (date) and that at the time of
his arrest he was wearing (military uniform) ~~xxxxxxxxxxxxxxxx~~
Signature of Provost-Marshal, Assistant Provost-Marshal, or other
officer or the Commanding Officer of the portion of His Majesty's
Forces or the officer, warrant-officer, or non-commissioned officer
in charge of the detachment of the Canadian Provost Corps, Canadian
Army into whose custody the above named person was taken on arrest
(Strike-out part inapplicable),

London
31 May 44

F.J. Stinson
(F.J. Stinson) Capt.
D.A.P.M. C.M.H.Q.

Summary of Evidence
IN THE CASE OF

C-7915, Pte. FRANCIS EVOY, Lorne Scots, attached to 52 Coy.,
11 CBR Bn., a soldier of the Canadian Army Overseas.

CHARGE: WHILE ON ACTIVE SERVICE - ABSENTING HIMSELF WITHOUT LEAVE
Army Act, Sec 15(1).

THE COMMANDING OFFICER HAS DIRECTED THAT THE EVIDENCE BE
TAKEN ON OATH.

FIRST WITNESS: A-22709, Cpl. Henderson, George Clayton, Alg. Reg't.,
attached to 52 Coy., 11 CBR Bn., C.A.(C), having been duly
sworn states:
"On 20 April 44, I was Plt. Ord. Cpl., and called the
roll at 22:0 hrs approximately on 20 April 44 when Pte. Evoy,
F. was absent, although I called his name several times. I
checked the lines but could not find him after a search. I
placed his name on Tattee Absentee Report and turned it into
the COS."

George Clayton Henderson
.....
(George Clayton Henderson, Cpl.)

THE ACCUSED DECLINES TO CROSS-EXAMINE THE WITNESS.

SECOND WITNESS: B-4561, Cpl. McGill, Donald Stewart, Tor Scots, attached to
52 Coy., 11 CBR Bn., C.A.(C), having been duly sworn states:
"On 20 April 44, I was Acting COS of 52 Coy., 11 CBR Bn.,
and Pte. Evoy, F., was reported absent to me by the Plt. Ord.
Cpl. at Tattee Roll Call at approximately 22:0 hrs, 20 April
44. He was shown absent from 22:0 hrs, 20 April 44 on
Absentee Report. I have not seen Pte. Evoy, F., since that
time."

Donald Stewart McGill
.....
(Donald Stewart McGill, Cpl.)

THE ACCUSED DECLINES TO CROSS-EXAMINE THE WITNESS.

THIRD WITNESS: B-25897, L/Cpl. Peddie, F. C., No. 6 (Area) Cdn. Prov. Corps.
A written statement signed by this witness is attached
to this Summary of Evidence and listed as Exhibit "A".
I CERTIFY that owing to the exigencies of the service
and the loss of time involved the attendance of this witness
could not in my opinion have been readily procured at this
time."

R. L. Goodenough
.....
(R. L. Goodenough, Lieut.)

Officer detailed to take Summary.

THE ACCUSED DOES NOT AT THIS TIME DEMAND THE PRESENCE OF
THIS WITNESS, THE STATEMENT HAVING BEEN READ OVER TO HIM.

FOURTH WITNESS: L-2647, L/Cpl. Newbauer, H. C., No. 6 (Area) Cdn. Prov. Corps.
A written statement signed by this witness is attached
to this Summary of Evidence and listed as Exhibit "A".
I CERTIFY that owing to the exigencies of the service
and the loss of time involved the attendance of this witness
could not in my opinion have been readily procured at this
time."

R. L. Goodenough
.....
(R. L. Goodenough, Lieut.)

Officer detailed to take Summary.

THE ACCUSED DOES NOT AT THIS TIME DEMAND THE PRESENCE OF
THIS WITNESS, THE STATEMENT HAVING BEEN READ OVER TO HIM.

yc

FIFTH. Capt. R. J. Stinson, D.A.P.M., C.M.H.Q., C.A.(C).
WITNESS:

A written statement signed by this witness is attached to this Summary of Evidence and listed as Exhibit "B".
I CERTIFY that owing to the exigencies of the service and the loss of time involved the attendance of this witness could not in my opinion have been readily procured at this time.

R. L. Goodenough
.....
(R. L. Goodenough, Lieut.)
Officer detailed to take Summary.

THE ACCUSED DOES NOT AT THIS TIME DEMAND THE PRESENCE OF THIS WITNESS, THE STATEMENT HAVING BEEN READ OVER TO HIM.

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 OF THE ACCUSED:

"No, Sir."

Francis Eves
.....
(Francis Eves, Plc.)
52 Coy., 11 CER Bn., C.A.(C).

I CERTIFY THAT RULES OF PROCEDURE 4(c) (d) (e) (f) & (g) have been complied with.
This Summary of Evidence of two pages has been taken down by me in long-hand in the presence and hearing of this Accused in the field at 11 CER Bn., this 9th day of June, 1944.

In the field
9 June 1944

R. L. Goodenough
.....
(R. L. Goodenough, Lieut.)
Essex Scottish, 52 Coy., 11 CER Bn.
Officer detailed to take Summary.

Place	Date of offense	Rank	(Name of drunkenness)	OFFENSE	Name of Witness	Promotions awarded	Date of award or date when not awarded with trial	By whom awarded	Remarks
-------	-----------------	------	-----------------------	---------	-----------------	--------------------	---	-----------------	---------

SUPPLEMENTARY COPY.

Added a true copy of the original document.

Infantry Co's 11 & B Co.

No. C. 79133 Name *EV0Y, F*

Date of last entry in Company Conduct Sheet

No and date of last drunk

Period not reckoning towards freedom from extra fine

Corps

Rgn, Battery, or Company

Date of enlistment

Sheet No

Signature of Company, etc

GC
Badges

Service or Proficiency Pay

Character

FORM 6
(REVISED 1930)

Enlist E

Fuy 11. In the case of an officer, the accused holds in the Royal Canadian Air Force the rank of
 REGIMENTAL BOOK

NAME _____
 RANK _____
 DATE _____

Fuy 12. The accused has served as a non-commissioned officer continuously without interruption for the
 period of _____

DATE OF SERVICE _____ YEARS

DATE OF SERVICE _____ YEARS

DATE OF SERVICE _____ 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

Fuy Observations by a court-martial or court of inquiry, when necessary, should be stated in the margin of this schedule
 and of cases in which trial has been dispensed with of non-regular service. NAME _____ RANK _____
 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	Verdict of the Court	Punishment Imposed

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 _____ 16th day of _____ June 1944.

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.

F. M. Pardee
 (F. M. Pardee, Capt & Adj.)

54-53 - Ste. Enroy. 1.

1946 Jan 3

SCHEDULE.

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

Accused: C79135 Pte Francis EVOY Khaki University of Canada

Charge.	Plea.	Finding.	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st <i>APA Sec 41</i>	<i>Guilty</i>	<i>Guilty</i>	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44. Findings on alternative charges see MML p 463 in 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in last of list see RP 44 in 8.)

At present under sentence for *beginning on 1st*
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)
Time in confinement awaiting present trial—a total of *33* days, of which *33* days were spent in hospital. (1)
(1. See RP 46(A) in 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To undergo detention for six months.

(Sgd) *H.J. Brody Major* *30 Jan 46* (Sgd) *Shose Major*
Judge-Advocate, if any (1) Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 740.)

(Sgd) _____ Commanding _____

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

Duties and powers see AA 54, 57, RP 37(D) in 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Accusals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If confirmed, accused may be tried again: AA 57, MML p 54. Minutes of confirmation or non-confirmation may be altered before arraignment: RP 33, MML p 65. Quashing after arraignment: KR Can 573. Dates and powers of reviewing offrs: AA 57, 57A, RP 33A, 54. The Confirming Offr must sign here personally. AA 172 in 1.)

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

I confirm the finding and sentence.

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

Date *30 Jan 46* (Sgd) *E. Churchie Lt. Gen*
Commanding Confirming Officer. *C.O.S.*

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused. Date. Signature of Offr.
C79135 Pte Francis EVOY 5 Feb 46 (R.G. Lees) Capt Adjutant
Khaki University of Canada

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

CPA86 In lieu of APA 1-40-2 25 9/1988 4/38B

Convened by Order of *Col R.G. Williams Camp Comd CMHQ* dated *21 Jan 46*

ACCUSED.

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

Number. (a) Prmt R. (b) Appmt, A/rank or A/appmt. Full Christian Names. Surname. Unit.
C79135 *Pte* *Francis EVOY* *Khaki Univ of Canada*

PROCEEDINGS REVIEWED

13 Feb 46 *John E. ...*
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fn notes. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 493, for notes and lists on how to record addresses, evidence, etc., which notes are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 36, 62-70, 72, 74, 94, 103, 119, 132.)

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

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

A3. The Court is opened. The accused is (was) brought before the Court. At *1330* hours trial commences. (1) (2)

A4. The Prosecutor produces a Medical Certificate that accused is (was) fit to undergo trial by court-martial. (1) The Court is satisfied that the Court is properly constituted to be held by court-martial instead of being held by summary by the C.M.H.Q. (2)

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

A5. President is accused. Do you object to _____ as interpreter? *Ans* _____
The interpreter is sworn. (1) Do you object to _____ as shorthand writer? *Ans* _____
(1. RP 72. Delete, if none employed.)

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

Ans *no* (1)
(1. RP 110. 2. If no objection, waiting member retires. RP 46(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

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

President	<i>Major D.H.C. Rose</i>	<i>RCA</i>	<i>3rd Can Ref at Depot</i>
Member	<i>Capt F.A. Burrell</i>	<i>C.M.H.Q.</i>	<i>At Bn (Cng) C.M.H.Q.</i>
Member	<i>Capt A.J.A. Savoie</i>	<i>C.S.C.</i>	<i>4th Bn (Trg) C.M.H.Q.</i>
Judge-Advocate	<i>Major H.J. Brody</i>	<i>C.M.H.Q.</i>	<i>Office of UIC C.M.H.Q.</i>
Prosecutor	<i>Capt J.E. Wilkin</i>	<i>CAL</i>	<i>Khaki U of Canada</i>
Defending Offr	<i>Capt R. Lelver</i>	<i>RCA</i>	<i>Khaki U of Canada</i>

Questions by President: Is the Prosecutor a lawyer? *Ans* *no* Is the Defending Offr a lawyer? *Ans* *no*

(1. RP 26, 27, 108, 111. List of offrs under instr will be returned separately with proceedings for information of Court Offr.)

(2. If Pres a lawyer and Def Offr not, accused is entitled to an adjournment when RP 39 (2) and fn 1 were not followed. See D1 p 23.)

A8. The accused _____ before arraignment make(s) (no) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 42(E), 106), or as to the jurisdiction of the Court (RP 24, 25(A), 112), or in bar of trial (RP 38), or as to accused's mental fitness to stand trial (AA 120, RP 57), or in case of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fn to RP cited. Insert in AE rank and name of the accused making the plea.)

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

(1. RP 31, 112. See para 1 of instr p 2. When more than one Charge Sheet see RP 42; when several accused to be tried separately see RP 71(C), and see separate copies of CF 493 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and members of the Court retire. (1) The Court is adjourned to _____ The proceedings are continued on Record Form *S*.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

No illegals or irregularities such as would warrant withholding confirmation.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

President to accused: Do you wish to make a statement? Ans No, Sir
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 2, MML p 54 para 47. 4. See para E3 of Record Form E.
5. Statement, if any, recorded per Notes.)

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

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.⁽²⁾
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.⁽³⁾
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea changed to Not Guilty, trial then proceeds by complying with paras D1 to D8 inclusive in Record Form D on p. 3 and making an appropriate record thereof on a separate sheet.)

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

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

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

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.⁽²⁾
(1. Under B3 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial then proceeds by complying with paras D1 to D8 inclusive in Record Form D on p. 3 and making an appropriate record thereof on a separate sheet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

D2. The Prosecutor makes (an) (no) opening address.⁽¹⁾
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).)

D3. The evidence for the Prosecution is taken.⁽¹⁾
(1. RP 39(C), 114, KR-Cas 155. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.⁽¹⁾ The Defending Officer submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s)⁽²⁾. The Court is closed, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).⁽⁴⁾

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras (2-14) and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans.....

Are they witnesses as to character only? Ans.....
(1. RP 113. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.⁽¹⁾
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CJ 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 40(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(a).)

D7. The Court is closed to consider the finding(s).⁽¹⁾ The finding(s) of the Court is (are) recorded in Part I of the Schedule.⁽²⁾ The Court is re-opened.
(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 40(B).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.⁽³⁾ Or, the President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.⁽⁴⁾
(1. AA 34(3) (b), RP 45, 200(A). 2. AA 34(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service⁽²⁾, and certified true copy (copies) of Conduct Sheet(s)⁽³⁾, purporting to refer to the accused, which he submits to the Defending Officer for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.⁽⁴⁾
(1. MFD 315 or AFD 294. 2. HM 5. 3. RP 46, KR-Cas 158. If above documents not produced, see RP 46 fn 1 para 1.)

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

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.⁽¹⁾
(1. AA 34(3), RP 200(A).)

E5. The Court considers the sentence.⁽²⁾ The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.⁽³⁾
(1. Where several accused tried separately see RP 77 (2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and 53 proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 89, 116, 119(A), KR-Cas 306, 336, 543-546, Questions 85, 209, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Canadian Military Headquarters,
Army Command
H. Williams Lt. Col.

R. Williams

LONDON
21 Jan 46

*Government
File No. 520
C. Williams
Lt. Col.*

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

UNIVERSITY OF CANADA
O IC ADM

(P.S. Cooper Lt.-Col.)

[Signature]

In the field
9 Jan 46

University of Canada,
the property of 2nd Officers' Mess, KEMRI
in cash, and cheques amounting to £17.0.0.
In the field, on 2 Jan 46, stole £22.0.6.

In that he

WERN ON ACTIVE SERVICE, COMMITTING A
CIVIL OFFENCE, THAT IS TO SAY, STEALING

First Charge
Sec 41
Army Act

The accused, 079125 Pte Francis Boy, KEMRI
University of Canada, a soldier of the Canadian Army
Offences, is charged with:-

CHARGE SHEET

4/12/46

FIELD GENERAL COURT-MARTIAL

- 1.16.
L. 870

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

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/R or A/Appmt, if any, see AA 182, 183, fin, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt B.	(b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C.79135	Pte		Francis	EVCY	Khaki University of Canada

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 21 Jan 46 endorsed by me, (~~as by me-offr-if-in-charge-for-me~~). To be tried by Field General Court-Martial.

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

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

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

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

PRESIDENT.

Major	D.H.C.	ROSE	RCCG	3 Cdn Repat Depot
(Rank)			(Must be named. RP 106.)	(Unit)

MEMBERS.

Capt.	F.A.	BURRELL	C Int C	AG Br (Org) CMHQ
A/Capt	A.J.A.	SAVOIE	CIC	G Br (Trg) CMHQ
(Rank)		(Named or detailed. RP 106.)		(Unit)

WAITING MEMBER.

Lieut.	E.C.	LINES	CIC	Khaki University of Canada
(Rank)		(Named or detailed, if any. RP 106.)		

JUDGE-ADVOCATE.

Major	L.J.	HECKY	CIC	Office of the
(Rank)	J.R.	SAVOIE		CMHQ
		(Must be named, if any. RP 106.)		

On Active Service in the Fd

in	ENGLAND		Lt. Col.	
(Country)			(Rank)	

R. J. Williams
(R. J. Williams) Lt. Col.
Camp Commandant
Commanding Canadian Military Headquarters.

Dat	21 Jan 46		Convening Officer.	
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CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

*Approved
Added
Huse*

MEDICAL CERTIFICATE

[Handwritten initials]

I certify that I have this day examined

C. 79135 Pte Evoy, P.

and in my opinion he is fit to undergo trial by Field General Court-Martial.

London England
26 January 1946

J. D. Rublee, Capt.

(J. D. Rublee) Capt R.C.A.M.C.
M.I.R., C.M.H.Q.

E-1

FOR DEFENCE APP

FIRST WITNESS AS TO CHARACTER:

Next E.D. Johnston, Alhake University of Canada,
duly sworn, states:

I am Secy-Treas of Officers Mess at
Alhake U. I have known accused since about
middle of Dec 45 when he came to work at
the mess as night watchman, in addition to
cleaning up the place. He always did his work
in a satisfactory manner. The duty officer
on the night of 1-2 Jan 46 showed how
collected the money in the bar at approx 2315
hours and how locked it in the safe in the
recreo office. When he failed to do. It is possible
that whoever placed the money in the drawer may
have believed he had locked the drawer, when in
fact he did not do so. The locks on the drawer
cannot be re-locked without using the keys
of which there is only one for each lock.
Capt Weirhorn who was the duty officer
on the night of 1-2 Jan 46 had possession
of these keys on that night.

No cross Exam.

R.P. 83(b) complied with

The witness withdraws

E-3

The Def Offr submits a rewritten plea
in mitigation which he reads to the Court.
(see attached). He also refers the Court to Para 38
of the III of modn, page 23. The money and
cheques were fully received and returned to the
Officers mess and deposited in its bank account

WJ

*M.
 LRB*

PLEA FOR MITIGATION OF PUNISHMENT

On behalf of Pte Evoy, I wish to enter a strong plea for mitigation of punishment. Pte Evoy has freely admitted his guilt, but before judgment is passed upon him there are several extenuating facts and circumstances to which I wish to draw the Court's attention.

Pte Evoy of his own volition, admitted the theft and led the SIS Investigators to the money, which was recovered intact. Had he continued to deny any knowledge of the act, it would have made the recovery of the money extremely unlikely and any proof of theft virtually impossible. Would Evoy have implicated himself thus unless he had regretted his actions and was seeking to make amends for them.

At this point I would like to draw the Court's attention to 2 sections from the Manual of Military Law. The first is Chapter 5, para 80, and the second is Chapter 3, para 28.

I intend to show from the evidence, firstly, that Pte Evoy admitted the theft on the spur of the moment and without pre-meditation. Secondly, that he was placed under circumstances of extreme temptation by the failure of superior Officers to carry out fully their own duties.

Evoy did not enter the bar of the Officers' Mess with the intention of stealing any money placed therein. He went there to carry out his normal duties, which consisted of cleaning up the room and looking after the fires. How could he know beforehand, that the cupboard was supposed to contain such a large sum of money as £79.0.6, when the normal Mess practice was to have the bar money taken out of the Mess and only a small amount of change left in it over night. I quote from Capt Hershoran's statement:

Q. Was Pte Evoy in the Mess when you put the money in the cupboard.

A. No.

Had Evoy's action been pre-meditated, would he have pointed out the open cupboard door and shown the money itself to a comparative stranger such as Bates? Furthermore, Pte Bates has stated on oath, that he did not see Evoy take any money from the cupboard but did see him put the money back into the cupboard.

Now with regard to the locking of the cupboard and the deposit of the money therein, Capt Hershoran has stated on oath that ~~he~~ locked the cupboard before leaving the Mess on the night of 1 Jan 46. Cpl Currie states that he found the doors of the cupboard locked the next morning. If these statements are absolutely correct, then the only way the money could have been obtained was by tampering with the cupboard itself, or by picking a lock and then relocking it. On the other hand, what does the direct physical evidence show?

He put the money in the cupboard and then

1280

Lt Johnson has ~~shown~~^{stated} that he could find no sign of the cupboard having been broken into upon examining it immediately after the loss was detected. Nor, could the trained SIS man, by his own statement, find any likely clues as to how access to the money was obtained. You have heard Lt Johnson's evidence today concerning the cupboard and its locks and have seen that these padlocks cannot be relocked without the key. And, the only keys were under Capt Hershoran's pillow during the night in question. How then, could the cupboard have been left locked in the evening, opened or entered into, during the night, and then found properly locked and intact in the morning, with only the envelope of money it was supposed to contain, gone?

Furthermore, both Ptes Evoy and Bates have sworn that ^{they saw} one door of the cupboard was ~~was~~ unlocked during the night. Also Evoy has sworn he could not relock the cupboard after placing the money in it because the padlock was locked to the staple. From this evidence, Gentlemen, there must be the gravest doubt that the cupboard was actually locked or even the money placed in it. Instead of being securely locked up, it would appear that the money was left where it might easily be stumbled upon. *(through carelessness of man)*

Whose was the responsibility for the safe custody of the money on the night it disappeared? It certainly was not Pte Evoy's. On the other hand, had the night Duty Officer for that date carried out his prescribed duties, that money would not have been in the Mess after 2330 hours but locked in a safe place. When the Duty Officer failed to call for the money, the responsibility for it fell upon the person last in charge of it. On this particular night, that person was an Officer, Capt Hershoran. Yet this Officer, who had been employed for over three months as Unit Account Officer, leaves a very large sum of money in a place he admits he did not consider as safe. He makes no effort to find a safer place for it, nor does he even exercise enough judgment to take the money to his own room - a safer place by far. In addition, there is the grave doubt that the money was ~~was~~ locked up in this unsafe cupboard *as nearly as possible*.

On the other hand, we have Pte Evoy, an ordinary soldier who enlisted in April 42 when he was just 19, and who saw action on the continent in the autumn of 1944 with the Highland Light Infantry of Canada. He is released from detention in December 1945 on remission of sentence for good conduct and is soon afterwards put to work in an Officers' Mess. Before he has even had a chance to rehabilitate himself, through the carelessness of ~~his~~^a superior, whose position obligates him to have known better, Evoy stumbles across a large sum of money left lying about unguarded. Here is extreme temptation thrown right into his path, a temptation which finally proves too great for him and on the spur of the moment he yields to it.

For that he is to be blamed, and his subsequent actions and plea show that he realizes the error of his ways. But can the blame rest on him alone? Why was a soldier but recently released from detention allowed to work in a place such as an Officers' Mess where there are ~~many~~ goods of value left on the premises? And, must not the blame, be shared by the responsible party whose duty it was to ensure the safe keeping of the money and whose failure to completely carry out this duty resulted in great temptation being thrown right in Evoy's path?

Gentlemen, had the money been picked up by the Duty Officer on the night of 1 Jan 46 or failing that, had the money been properly placed in safe keeping, this case would not be before you now. *Furthermore, when Pte Bates who was employed as Regimental Police at the time, does not offer one bit*

of advice to Evey at the time the money is found,
but leaves the Mess. knowing the money is in an
unlocked cupboard."

4813

In view of the evidence and the circumstances ^{surrounding the act,} we wish
to throw ourselves on the mercy and leniency of the Court.

25 January 1946

R. Silver Capt.

Defending officer

4813

Ex. A
1978

Summary of Evidence in the case of
C79135 Pte Evoy F., Khaki University of Canada

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

First Witness for
Prosecution

Capt J. Hershoran, Khaki University of Canada having
been duly sworn states:-

I am Capt Hershoran and am employed as accounts officer. At approx 1100 hrs 1 Jan 46 I was asked by Maj John member of B officers mess committee to relieve Cpl Currie at the bar. I did so at the lunch hour and again about 1900 hours. At that time I asked Cpl Currie what should be done with the money at closing time. His answer was that the duty officer would pick it up at 2320 hrs that evening. I also asked him what I should do with the money in case the duty officer didn't show up. His answer was to leave the money locked up in the bar cupboard. At the time I took over there was approx £65 in the cash box incl 3 cheques totalling £17. Cpl Currie's last words to me were to make sure that the bar was properly locked and he showed me how the hasps and locks worked. I remained on duty at the bar all evening until 2300 hrs when I closed the bar. I counted the cash and after deducting the change fund of four pounds I put the balance in a manilla envelope ready for the duty officer. The amount was £79-0-6 incl the three cheques for £17. I called the orderly sergeant and asked him if he had seen the duty officer or knew of his whereabouts. His reply was no. The mess lounge at that time was completely deserted. At 2345 hrs I realized that the duty officer was not coming. I put the envelope with the money in it on top of the cash box in the bar cupboard. I then locked the bar cupboard. I checked with the night man Pte Evoy F. to ensure that he would be on duty all night. On leaving the mess I met Lieut J.B. Brown former adjutant and told him about the money not being picked up. Before leaving with him I went back to the bar to see that it was properly locked up. I then went to my quarters and went to sleep with the keys under my pillow. I was awaked at approx 0810 hrs the following morning by Cpl Currie who took the keys to the bar. It was after 1000 hrs when Cpl Currie came back and asked me where the money was. I told him that I had left the envelope with the money in it on top of the cash box locked in the bar cupboard. I then went over to the mess but could find no trace of the money and informed the adjutant of its disappearance.

Q. Was Pte Evoy in the mess when you put the money in the cupboard?

A. No.

Q. Do you consider the cupboard was a safe place to leave the money?

A. No, but I did not have any place that I considered any safer.

Q. What type of lock was on the cupboard?

A. A spring lock.

Cross examination by the accused.

Q. Did you check the money which was supposed to have been on the cash box when you returned the second time?

- A. No, as it was locked up, but I did look around and I did not notice the envelope containing the money.

J. Hershman
J. Hershman, Capt

Second Witness for
Prosecution

L101107 Pte Bates G.W. attached Provost Sec Khaki University
Of Canada having been duly sworn states:-

CC30

I am Pte Bates. At approx 1230 I visited 'B' officers mess where I know Pte Evoy was on duty. I met him in the kitchen and we had something to eat. Then Pte Evoy asked me if I would give him a hand to clean the lounge. While I was sweeping out the lounge Pte Evoy was behind the bar. And later Pte Evoy called me over to help him put away the glasses that he had been washing. After a minute or two he mentioned that the door of the left hand cupboard under the bar was open. While I was putting away the glasses he showed me some money in a brown envelope. I put away the rest of the glasses and he put the money in the cupboard and then we left the lounge.

Q. Why did you go to B officers mess at 1230?

A. I wanted to get something to eat.

Q. Did you know Pte Evoy was on duty?

A. Yes.

Q. Were you in the habit of going to the officers mess for lunch?

A. No.

Q. How much money do you think was in the envelope?

A. Around Fifty pounds.

Cross examination by accused.

Q. Did you see me take the money from the cupboard?

A. No I didn't see him take it.

G.W. Bates
G.W. Bates, Pte

Third Witness for
Prosecution

B52427 Cpl Currie C.W. Khaki University of Canada
having been duly sworn states:-

I am Cpl Currie C.W. and I am employed as a steward in 'B' officers mess. On the night of Jan 1 I was relieved at the bar in the 'B' officers mess by Capt Hershoran. At that time I turned the bar complete with money and cheques over to him.

Next morning at 0810 hrs I went to Capt Hershoran's quarters and obtained the keys of the bar from him. I returned to the bar and took stock of the liquor.

- Q. Did you check the money when you returned to the bar with the keys on 2 Jan ?
- A. No, I did not look in the cupboard where the money is kept because it should have been picked up the night before. I checked the cash box and found the required four pounds.
- Q. Who was on duty in the mess the night of Jan 1/2 ?
- A. Pte Evoy.

Mr Johnston the mess secretary came in and between the two of us we completed the stock taking and he took the stock sheets to the accountants office. When he came back from there, that is when I found out the money hadn't been picked up by the orderly officer and turned in. Then I went over to Capt Hershoran's quarters and asked him what he had done with the money and he told me he had left it on the top of the cash box in a brown envelope. So I went back to the mess and Mr Johnston and I looked through the bar and couldn't find it. So I reported back to Capt Hershoran.

Cross examination by accused.

- Q. Did you open both doors when you took the cash box out of the cupboard?
- A. I unlocked both doors and opened one when I took the cash box out.

Re-examination by court

- Q. Did you visit Pte Evoy after you realized that the money was missing?
- A. Yes.
- Q. What conversation took place between you and Pte Evoy at that time?
- A. I asked Pte Evoy if he had seen a brown envelope on the bar or behind the bar or on the floor which contained money.
- Q. Was there any doubt in your mind as to where the envelope was left by Capt Hershoran?
- A. So there was no doubt but I was confused at the time and very worried about the money.
- Q. Were you the first to check the bar in the morning?
- A. Yes.
- Q. Were the doors of the cupboard locked?
- A. Yes, the doors were locked.

C. W. Currie
C.W. Currie, Cpl

Fourth Witness for
Prosecution

Lieut E.D. Johnston Khaki University of Canada
having been duly sworn states:-

I am Lieut Johnston employed as sec-treas of 'B' officers mess Khaki University of Canada. At approx 9 o'clock on morning of 2 Jan 1946 I had finished taking inventory of the stock in the officers mess. I took the inventory sheets to the accounts office and learned the money hadn't been turned in to the accounts office. Capt Hershoran had worked in the bar the night before so I sent Cpl Currie to Capt Hershoran to get the money as I thought he would have it. Cpl Currie returned saying Capt Hershoran had left the money in a brown envelope on the cash box locked in the bar. We searched the bar but could not find the money. I reported the money missing to the adjutant.

Q. Did you check the cupboard under the bar after you learned that the money was missing?

A. Yes, and I could see no signs of the cupboard having been broken into.

The accused declines to cross examine this witness.

E.D. Johnston Lieut
E.D. Johnston, Lieut

Fifth Witness for
Prosecution

S/Sgt Frederick Brown, Special Investigation Section
Cdn Military Headquarters having been duly sworn states:-

I am S/Sgt Brown.

At about 1600 hrs on 2 Jan 1946 in consequence of a telephone message received from Maj John I visited Khaki University in company with Sgt Miller also of the S.I.S. Maj John described how a quantity of cash and 3 cheques were missed from the bar in the officers lounge at the University. Sgt Miller and I then went to this bar examined the locks and made a search for fingerprints and other likely clues but without good result. We then interviewed Capt Hershoran who stated emphatically that he had left the money locked in the cupboard in the bar the previous evening. We then interviewed Cpl Currie who is normally in charge of the bar and he was equally emphatic that the money was not there when he opened the cupboard in the morning. We then interviewed Pte Evoy who, according to the records had been on night duty engaged cleaning the lounge. At this stage Pte Evoy denied all knowledge of the offence. However he did say that a Pte Bates of the R.P. staff had visited the lounge the previous evening and assisted in the cleaning up. Pte Bates was then seen and his story did not entirely bear out the story told by Evoy. This made it practical to again interview Pte Evoy. As he was not available on the evening of 2 Jan he was seen on morning of 3 Jan but again completely denied any knowledge of the theft.

Pte Bates was again interviewed on the 3 Jan and completely broke down and told us that Evoy had told him that he, Evoy, had stolen the money. Bates was then cautioned and a statement was obtained from him which is produced as Exhibit A. I then saw Evoy and handed him a copy of this statement which he read over. He then decided it was best to clear up the matter. I cautioned him that

4080

he was not obliged to say anything unless he wished to do so and whatever he did say would be taken down in writing and may be used in evidence. He then made a statement, the original of which I produce as Exhibit B which I took down under caution. Evoy then went with Sgt Miller and I and in the ditch at the rear of the University he produced the stolen money and cheques, Exhibit C, from beneath a stone. The money was intact. He was then placed in the guard room under unit custody at approx 1800 hrs 3 Jan 1946.

F. Brown S/Sgt

F. Brown S/Sgt S.I.S. CMHQ

The accused declines to cross examine the witness.

The accused was cautioned as follows:

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

After the above caution the accused elected to give evidence as follows:

First Witness for
Defence

The accused 079135 Pte Evoy F. Khaki University of Canada having been duly sworn states:-

On the night of 1/2 Jan 1946 I was on duty in B Officers Mess Khaki University of Can as night steward. I took over my duties from Cpl Currie at approx 1800 hrs. During the evening I carried out my normal duties and at approx 0030 hrs Pte Bates who had just returned from Watford came down to drop in to visit me and have a bite to eat. After we finished lunch, at my request Bates assisted me in cleaning up the lounge. While washing glasses in the bar I called Pte Bates down to assist me in stacking the glasses. I lifted a towel from the bar to dry some glasses and as I pulled it off the counter I noticed that the cupboard next to the entrance of the bar was not locked. I drew this fact to Pte Bates attention because it was rather unusual that it should be left unlocked.

After I had finished drying the glasses I reached down to the shelf on the right of the cupboard to pick up a rag to wipe the bar. As I picked up the rag I noticed a brown envelope lying on the shelf. I picked this envelope up and on examining it found it contained a good sum of money. I drew this to Pte Bates attention and pointed out to him that it was a rather foolish place to leave such a large sum. I placed the envelope with the money in the cupboard but I was unable to lock it because the lock was already secured on the staple. Pte Bates and I then withdrew from the room for a cup of tea in the kitchen. At approx 0220 hrs Pte Bates left to go to his quarters and I remained in the kitchen to clean up the dirty dishes.

At approx 0600 hrs I returned to the lounge and after reading the newspaper for about half an hour I went over to the bar and picked up the envelope with the money in it. I left the mess immediately with the money and I concealed it in the ditch opposite the transport lines and I then returned to the kitchen and waited to be relieved by the day stewards. When they arrived I went to my hut to go to bed.

At approx 0930 hrs I was awakened by Cpl Currie and asked if I had seen a brown envelope around the bar. I denied having seen it. Cpl Currie then told me that the envelope containing the bar money was missing. I asked Cpl Currie where the money had been left and he replied that from what he could make out Capt Hershman was not sure where he had left the money. Later on in the day, I am not sure what time, I was called down to 'B' officers mess where I was questioned by two S.I.S. men. I denied having any knowledge of the missing money.

The next morning at approx 1130 hrs I was placed under arrest and escorted to the guard room where I was questioned again by the S.I.S. but I did not admit my guilt to them. The same afternoon at approx 1730 hrs I was escorted to an office in the main building where I was questioned again by the S.I.S. I told them that I had taken the money and that I would take them down to the ditch and give it to them. After I had returned the money to them I was returned to the guard room.

F. Evoy
F. Evoy, Pte

The accused does not call any witnesses for the defence.

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

R. C. Eutherford
R. C. Eutherford, Capt
KHALI UNIVERSITY OF CANADA

Leavesden, Herts
7 Jan 1946

cc A 1943

Statement of L-101107, Pte. Bates, B.W.
H.Q. Coy. Khaki College, - CMHQ. Who Saith:-

I have been cautioned that I am not obliged to say anything unless I wish to do so and whatever I do say will be taken down and may be given in evidence.

Evoy Bates

I came to Khaki College from No. 1 CGRU about two weeks ago and have been employed on the RP Staff at the College for the past four or five days.

Whilst I was at 1 CGRU I chummed up with Pte. Evoy and we came to the College together. I have been out with him three or four times since we came to the college.

On Tuesday Night the 1st Jan. 46, Evoy and I were at a picture show at Watford with two girls. He left early to go on duty in the Officers Mess and I returned to the College shortly after midnight. When I got back I went over to the Officers Mess and saw Evoy in the kitchen.

I got talking to him in the kitchen and we had a cup of coffee and then went into the Officers Lounge. Whilst we were in the Lounge Evoy went behind the bar to clean up. While he was behind the bar he said something about 'the y've forgotten to lock the cupboard'. I looked over the bar and saw that the cupboard door was ajar. I then continued to clean up the Lounge. I don't know whether Evoy unlocked the cupboard himself or whether it had been inadvertently left unlocked.

Later at about 0200 hrs. 2 Jan. 46, just before we had got finished cleaning up I saw that Evoy had a green metal box on the floor behind the bar and he showed me a large envelope which contained a quantity of money in notes. He said something about it being a lot of money as it was all the last night's take. I agreed that there was quite a bit of money there but said no more about it. He put the money back in the cupboard and we then went to the kitchen. I don't believe that he locked the cupboard. I had something to eat in the kitchen with Evoy and then I went to bed.

After supper last night 2 Jan. 46. I was interviewed by members of the S.I.S. and then saw Evoy at 'The Dirty Duck Pub' at the corner outside the main gate and he bought me a drink. He asked me what I had been asked by the Investigators and I told him that I had been asked a few little questions - but nothing about the missing money. We were drinking for awhile at the bar and the talk centred on the missing money and as a climax he said that the temptation was too great and that he had taken the money. I asked him where it was and he said 'Wouldn't you like to know' I said that I did not want to know exactly where it was and he said 'It's not very far away'.

I can honestly say that I have had no share of the proceeds of this theft and I am positive that I saw Evoy take the green box out of the bar in the Officers Mess and that I saw the cupboard door open.

This statement has been read over to me and is true.

Evoy Bates

Statement taken down and read over by S/Sgt. F.C. Brown and signature witnessed by Sgt. N.L. Miller SIS-CMHQ at Khaki College on 3 Jan. 46.

Witness

(D76466 Sgt. Miller, N.L.) SIS
Cdn Troop Corp - CMHQ

Ex B. 110

Statement of C-79135, Pte. Evoy, F.
Khaki University - CMHQ Who Saith:-

I have been cautioned that I am not obliged to say anything unless I wish to do so and whatever I do say will be taken down in writing and may be given in evidence. *F. Evoy*

I was on duty in the Officers Mess at the above Unit on the night of 1 - 2 Jan. 46. After the bar closed I started cleaning up the Officers Lounge and at that time the only person in the room was the Capt. who had looked after the Bar that night who I believe was awaiting the Orderly Officer. He left between 0100 and 0130 hrs. I then started to clean up behind the bar, and Pte. Bates was then out in the kitchen.

Pte. Bates came into the Lounge and helped me to clear up. I then saw a long brown envelope placed at the right end of the bar. This envelope was unsealed and I looked into it and saw a large number of bank notes. I just looked at it and put it back. I later showed the money to Bates but again put it back where I found it. I continued cleaning up in the bar and when I lifted up the towel which had been placed over the cupboard doors I saw that the left hand cupboard had not been properly locked. The lock was locked over the staple but the hasp was over the lock. This is the cupboard with the small lock. I looked into the cupboard but did not touch anything nor did I take anything out.

After I had my work all finished at about 0330 hrs. I sat down by the stove and began to think about the money that had been left so easy to get at. I am about \$250.00 in the hole and am only drawing 10/- a ~~week~~ and I am afraid that by 0530 hrs. the temptation was so great that I had to take the money. Between 0530 and 0600 hrs. I went back to the bar and picked up the money and later put it back again. I then thought about taking £2 or £3. but dismissed that idea as I knew it would be just as bad as taking the whole lot. I was in such a position that I finally took the envelope complete and went straight out and hid it just outside the Camp on the roadway underneath a stone and wrapped in my handkerchief.

I realized shortly afterwards that I had done a foolish thing and have been contriving ever since to find some manner by which I could get it back without being involved, unfortunately I never had an opportunity of getting it back without it being obvious that it was me that stole it.

I am very sorry for what I have done and do realize that I was a fool. Now that I have made a clean breast of everything I feel better and can only hope that I will be dealt with as leniently as possible.

This statement has been read over to me and is true.

(Signed) *F. Evoy*

Statement taken down, read over and signature witnessed by
S/Sgt. F.C. Brown, SIS-CMHQ. at Khaki College on 3 Jan. 46.

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Certified list of currency and
cheques recovered by S.I.S.

C 54 E 441344
C 48 H 761289
J 93 E 400516
C 64 H 543389
C 28 H 407506
H 87 H 764323
E 66 H 276099
D 06 H 485153
H 65 E 826377
C 91 E 479346
D 31 H 602772
X 62 D 320006
H 46 E 706748
X 18 E 667927
J 79 E 124754
C 82 E 507491
U 61 D 062092
A 56 H 637432
E 50 H 946677
C 79 D 692662
E 61 H 900690

J 12 H 976141
D 03 H 031479
D 75 E 761615
D 30 H 266461
C 25 H 495422
C 61 E 359495
D 03 H 252487
J 88 H 826507
D 28 E 529403
D 96 E 298882
C 88 E 188135
D 18 H 835122
J 22 H 395792
H 96 E 692254
J 82 H 234651
D 19 H 756230
E 87 E 964941
K 17 E 985163
J 39 E 458678
D 31 H 503116
H 80 H 900080

X 36 D 867482
D 62 D 028117
C 27 H 494512
E 59 E 830744
H 59 E 538719
D 31 H 602773
D 05 H 198776
D 06 E 508536
J 31 H 100637
X 72 D 295228
D 31 H 226400
H 81 H 271338
D 06 H 198776
C 48 H 878206
J 63 E 867943
D 06 H 213171
D 04 H 187582
E 59 E 818670
D 06 H 198777

One sixpenny piece dated
1944.

Cheque No. C 22864 dated 1 Jan 46 The Canadian Bank of Commerce
Payable to Cash £7-0-0. Signed by H.D. Jenner

Cheque No. C 150978 dated 1 Jan 46 Bank of Montreal
Payable to C. Mess Khaiki Univ of Canada £5-0-0. Signed by H.I. Campbell

Cheque No. C 256933 dated 1 Jan 46 Bank of Montreal
Payable to "Ms Officers Mess Khaki University £5-0-0. Signed by Morgan E. John.

The above are the serial numbers of Bank of England £1-0-0 Notes,
amounting to £62-0-0 and particulars of three cheques drawn on various
Banks amounting in total to £17-0-0 also one sixpenny piece.

Total money involved £79-0-6.

I hereby certify that the above information is correct and
represents the money recovered by me on 3 Jan 46.

K. P. Miller Sgt.
27466 Sgt. M. G. N. S. S.
On Koroostob - C.M.H.

I enclose the above.

F. B. Benn Sgt
S.I.S. C.M.H.

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-79135	Pte	Evoy, F.	Pranote <u>Kuski</u>

1. The following is a fair and true summary of the entries in the Field Service and General Regimental and Squadron 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 and of cases in which trial has been dispensed with.

	Within last 12 months			Since enlistment or appointment		
For	AA 10(4)	Nil	times	AA 10(4)	two	times
For	AA 15(1)	Nil	times	AA 15(1)	ten	times
For	AA 40	Nil	times	AA 40		times
For			times			times

Number of instances of gallantry or distinguished conduct Nil

or,

There are no entries in the conduct sheets of the accused. n/a

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 Air Force Act and dispensations with trial under A.A. 73 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 charge, for Nil days in civil custody, and 22 days in Air Force military custody, making a total of 22 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his period of service attestation paper is 22 years

6. The date of his attestation specified in his period of service attestation paper 17 Apr 42

7. The service which the accused is allowed to reckon towards discharge is 1 year 3 months 14 days

8. The accused is entitled to reckon some 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 (or is in possession of or entitled to). State any military decoration or reward.

Nil

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 _____

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 C-79135. Rank Pte
 Name Francis Evoy 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 Received
FGCM	Field 16 Jun 44	AA 15(1)	90 Days Detention	30 Days
FGCM	31 Mar 45	AA 15(1)	2 years hard labor	112 days
Civil 8104/44	Brentford Middx	Sec 2 Larceny Act 1916	Fine £2-10-0	

Certified Correct.

R.G. Lees
 (R.G. Lees) Capt & Adjt
 Dalhousie University of Canada

25th Jan 1946

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

Signed this _____ day of _____

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.

24-116.

Plu. Evay. F.

SCHEDULE.

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

Accused: C79135 Pte Francis EVOY X-4 List (13Bn) HLI of C att 1 Cdn Disciplinary Centre

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

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

At present under sentence for _____ beginning on (date) _____ (1)
 (1. Insert sentence being served, or delete, if not applicable. See RP 44(A). Information should be found on MF B355 or AF 8296.)
 Time in confinement awaiting present trial—a total of 41 days, of which 111 days were spent in hospital (1)
 (1. See RP 46(A) fn 2. Information should be found on MF B355 or AF 8296 admitted in evidence under E2.)
 Sentence awarded by the Court: To be imprisoned with hard labour for a period of two years.

(Sgd) _____ 31 Mar 45 (Sgd) "George B H Cox" Major
 Judge-Advocate, if any. Date awarded. President. (RP 41, 50)
 (See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(2), RP 120(F), MML p 760.)

Date _____ (Sgd) _____ Commanding

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 517-517. Accusals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(3), RP 120(C). If not confirmed, accused may be tried again: AA 57, MML p 64. Minutes of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offers: AA 57, 57A, RP 53A, 54. The Confirming Offer must sign here personally: AA 172 fn 1.)

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

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

(Sgd) "G S H Gostling"
 ("G S H Gostling") Brig
 Date 2 APR 45 Commanding 2 Cdn Base KPT GP
 Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 51, KR Can 57A, 577.)

Accused. Date. Signature of Offr.
 C79135 Pte EVOY F 18 Apr 45 "J Medhurst" Lt-Col
 CR #84 1 - Last Comdg, 1 Cdn Disciplinary Centre
 d/9-4-45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALED.

FIELD GENERAL COURT-MARTIAL

CPA66 (to 100 of APAR) 40/P & B/1008 4/38B

Convened by Order of Lt-Col J Runcie MC A/Comd 2 CBRG dated 30 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 18, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apmnt, A/rank or A/apmnt, if any, see AA 182, 183, fn, KR Can 308, 328, 330.)

Number. (a) Prmnt R. (b) Apmnt, A/R or A/ Apmnt. Full Christian Names. Surname. Unit.
 C-79135 Pte Francis EVOY X-4 List (13 Bn) HLI of C att 1 Cdn Disciplinary Centre

CERTIFIED TRUE COPY

PROCEEDINGS OF TRIAL.

Held in the Pd in (country) _____ on (date) 31 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALED BY PRES OR JA. The Schedule referred to throughout is on p.4. Citations do NOT include all relevant form Nos. For guidance on procedure when a variation in this form arises, see form GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding form number herein. See back of Convening Order, CF 489, for notes and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 101, 119, 122.)

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

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-12, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1415 hours trial commences. GBC

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

(1. KR Can 557. 2. AA 46(3), RP 60 fn 1. For effect see KR Can 543(c). Delete, if not applicable.)

A5. Accused is accused: Do you object to _____ as interpreter? _____ GBC
 The interpreter is sworn? (1) Do you object to _____ as shorthand writer? _____ GBC
 (1. RP 72. Delete, if none employed.)

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

Ans. NO (1)
 (1. RP 110. 2. If no objection, waiting member retires. RP 66(5). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

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

President Major G B H Cox CAC att 1 Cdn Disciplinary Centre
 Member Major A H Leffroy Seaforth Rights att 1 Cdn Disciplinary Centre
 Member Captain J D Pollock Can Fus att 1 Cdn Disc Centre
 Judge-Advocate _____
 Prosecutor Captain J H Labrie R de Mais att 1 Cdn Dis Centre
 Defending Offr Captain G B Cartmel R de Mais att 1 Cdn Dis Centre

Questions by President: Is the Prosecutor a lawyer? Ans. NO. Is the Defending Offr a lawyer? Ans. No (1)

(1. RP 26, 27, 109, 111. List of Offrs under instrs will be returned separately with proceedings for information of Court Offr.)
 (2. If Pres a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See D1 p 2.)

A8. The accused C79135 Pte Francis EVOY before arraignment makes (no) plea GBC
 (1. If a special plea is made for separate trial on one or more charges (RP 42(E), 108), or as to the jurisdiction of the Court (RP 24, 25A), 113, or in bar of trial (RP 26), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the address made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fn 1 as full cited. Insert in All rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (1) on all charges in the charge sheet (2) The accused does (not) object to any charge (3) There is no amendment to be made to the Charge Sheet (4) The President records the plea in Part I of the Subordinate. GBC

(1. RP 21, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(c), and use separate copies of CF 486 to record proceedings. 2. RP 22, RP 32. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is/does not) consider the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form _____ GBC

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG VOL 5 P 144

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

3. As to responsibility of President to accused see RP 60, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (b); duty and privileges of accused and Defending Officer see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B); and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 110; see of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.

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

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

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

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

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

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

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

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President. (1) If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of para D1 to D6 inclusive of Record Form D on p 3. RP 37(D).

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

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

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D6 inclusive of Record Form D on p 3 before proceeding with C 2. (1) RP 37(A) (2).

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above. (1) Under B1 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C1. If any plea is changed to Not Guilty, trial then proceeds by complying with para D1 to D6 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

D3. The evidence for the Prosecution is taken. (1) (1. RP 39(C), 114, KR Can 355. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

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

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

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

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed. (1) (1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf 105. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 102(a).)

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later. (1) Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed. (2) (1. AA 34(3) (4), RP 45, 120(A). 2. AA 34(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

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

RECORD FORM E-PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(s), and certified true copy (copies) of Conduct Sheet(s), purporting to refer to the accused, which he submits to the Defending Officer for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 160(1) (2) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. K and Ex. L respectively. (1) (1. MFB 353 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 158. If above documents not produced, see RP 46 fn 1 para 1.)

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

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated. (1) (1. AA 34(6), RP 120(A).)

E5. The Court considers the sentence. (1) The President records the sentence in Part I of the Schedule, which is dated and signed by him (1) (1) When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its provisions, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 136, 162, RP 46-50, 89, 118, 119(A), KR Can 326, 330, 363-366, Overseas RD 329, 722, MML p 60, 737-758. As to sentences assigned for civil offences by the law of England see AA 41(1), MML p 126. When accused already under sentence of imprisonment or detention see AA 46(1)(b), 68(1), KR Can 544. 2. RP 30. As to release from arrest by Convening Officer see KR Can 567. As to assembly and disposal of record after trial see notes on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Exhibit "F"

MPB246

GBC

MEDICAL OFFICER'S CERTIFICATE

(CR(Dan) Para 557)
(CMHQ CL 173)

I certify that I have this day examined C79135

Pte Evoy F and in my opinion he is fit ~~XXXXXX~~ to undergo
trial by Court Martial.

Station 1 Cdn Disciplinary Centre

" A A Toms " Capt
Medical Officer

Date 31 Mar 45

1 Cdn Disciplinary Centre
Unit

FIELD GENERAL COURT-MARTIAL

CFA95 (16 Dec of AFAS)
40/FAN/167 (1982)

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

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/R or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt. A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C79135	Pte		Francis	EVOY X-4 List (13Bn)	HLI of C att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~have~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 30 Mar 45 endorsed by me, ~~as by an offr of my staff for me~~, "To be tried by Field General Court-Martial".

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

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

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

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

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

(RP 105(E). Delete, if none appointed.)

PRESIDENT.

Major	G B H Cox	CAC att 1 Cdn Disciplinary centre
(Rank)		(Unit)

(Must be named. RP 106.)

MEMBERS.

Major	A E Lefroy	Seaforth Highrs att 1 Cdn Disciplinary Centre
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Capt	J D Pollock	Can Pus att 1 Cdn Disciplinary Centre
(Rank)		(Unit)

WAITING MEMBER.

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

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

On Active Service in the Fd

in	Belgium	" J Runcie "
(Country)		(Rank)

(Signed personally. RP 105 (n 2))

Date:	30 Mar 45	A/ Commanding 2 Cdn Base Pft Gp
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Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

680

CHARGE SHEET

The accused, C79135 Pte Francis EVOY, X4 List (13 Bn) RLI of Canada, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with: -

FIRST CHARGE - WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE
Sec 15 (1)
Army Act

in that he

In the Field, absented himself without leave from 0910 hrs 14 Dec 44 until apprehended at 1130 hrs 17 Feb 45

(Total absence 65 days 2 hrs)

In the Field
28 Mar 45

" A O Hood "

(A O Hood) Lt Col
Commanding
1 Cdn Disc Centre

To be tried by Field General Court Martial

In the Field
30 Mar 45

" J Buncle "

A/Comd
2 Cdn Base Rft Gp

Plea in Mitigation in the case of C/9135 Pte EVOY F

The accused is 20 years old and unmarried. He joined up in Canada in the NPAM before the war, and was discharged as under age on the outbreak of war. He joined up again at the time the OTC was opened at Brockville, served on the staff there for about 1 year and was again discharged as underage. He joined a third time in April 1942 and came overseas 2 Apr 43.

He went to France 18 Aug 44 and served with the NLI continuously until upon being wounded the third time early in October he was evacuated to hospital. He did not go absent from his unit but while at CBRG. The accused's father served with distinction in the last war and the accused cannot return and face his father unless he can get back into action and redeem himself.

In view of the accused's extreme youth and the fact that he has been in action quite some time and has been wounded three times in all although the first two did not take him out of action, I ask that the court see fit to award a minimum sentence and give him an opportunity of again serving before having to return home and face his father.

" G B Cartmel " Capt RCA 31 Mar 45

Defending Officer

Summary of Evidence in the cases of C79135 Pte F EVOY, X-4 List
13 Bn HLI of C, attached to 1 Cdn Disciplinary Centre, a soldier
of the Canadian Army Overseas.

Charge - Absence without leave

By direction of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as
Exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from
Pt II Order No 2 dated 6 Jan 45

Exhibit "B" - Certified true copy of Extract from
Pt II Order No 25 dated 5 Mar 45

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

A I have nothing to say.

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

" Maurice Rousseau " Capt

(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

Dated in the Field
29 Mar 45

Exhibit A

"M ROUSSEAU" CAPT

PART II OTHER EXTRACTS

TO: Officer Commanding
1 Cdn Disciplinary Centre
Cdn Army Overseas

90/20/34/X-HLI OF C/1(ASC)

24 MAR.....19..45....

EXTRACTS FROM: UNIT.... X-4 List (13 Bn) HLI of C

Part II Order no. 2 dated...6 Jan.45..

ABSENT WITHOUT LEAVE

AWL from 0930 hrs 14 Dec 44

X4 List (13 Bn)

C79135 Pte EVOY F

Requested to be a trip extract from
the regimental books and documents in my
custody

J. R. Fenslon, Capt.....

Officer IC Centre

Cdr. 1st Cdn. 2nd Div. Army GP

attached. Please acknowledge receipt of all documents

The following documents are

required. Please acknowledge receipt.

Originating clerks initials.....

Officer in Charge

Canadian Section 1st Div. 1st Bn

Exhibit "B"

"M Rousseau" Capt

PART II ORDER EXTRACT FORM

TO: Officer Commanding
 1 Cdn Disciplinary Centre
 Cdn Army Overseas

90/80 /34/X-HLI OF C/1(A5C)
 24 MAR 1945

EXTRACTS FROM: UNIT..... X4 List (13 Bn) HLI of C

Part II Order No..... 25 dated... 5 Mar 45

STRENGTH INCREASE

TO: X-4 List (13Bn) on app from des wef 1130 hrs 17 Feb 45

C79135 Pte EVOY F

Requested to be a loan extract from
 the regimental books and documents in my
 custody

"J R Fenelon," Capt.....
 Officer IC Recruit, "CH"
 Cdn Army Overseas

The following documents are
 attached. Please ack receipt in all duplicate
 required. Please forward copy.

Originating clerks initials..EAC.....
 Officer in Charge
 Canada: Section 2002 Bn, Echelon

LIST OF WITNESSES

N/A

LIST OF EXHIBITS

Certified true copy of Extract from Pt II Order No 2 dated 6 Jan 45	"A"
Certified true copy of Extract from Pt II Order No 25 dated 5 Mar 45	"B"

I, C79135 Pte EVOY F acknowledge having received one copy of
the Summary of Evidence and one copy of the Charge Sheet free
of charge on 28 Mar 45.

" Pte Evcy F "

C79135 Pte EVOY F

ARMY FORM B.296 (WAR)

Statement as to Character and Particulars of Service of Accused.

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

Number.	Rank.	Name.	Regiment (or as the case may be).
C79135	Pte	EVOY F	HLI of C

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

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

For 15 (1) AWL	1	5	times
For 10 (4)		2	times
For			times
For			times

Date of first entry in Field Conduct Sheet 29 Sep 43

Date of last entry in Field Conduct Sheet 18 Nov 44

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

*State out of court convictions.

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

4. The accused has been awaiting trial on the present charges for N/A days in civil custody; and for 41 days in military custody, i.e. N/A days in open arrest, 41 days in close arrest; of which N/A days were spent in hospital.

5. The present age of the accused is 20 years old

6. The date of his attestation is 17 Apr 42
came up for military service

7. The service which the accused is allowed to reckon is _____

8. The accused is in possession of: CVCM & Clasp

Insert the military decorations of any held by accused.

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

Date of Promotion

In the substantive rank of //////////

In the war substantive rank of //////////

In the acting rank of //////////

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

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

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment resulted or sentence suspended.
FGCM	Field 31 May 44	AWL 30 days	90 days detn total forf 136 days pay	

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

Signed this 31st day of March 45

" R. P. Stage " Capt
Admin Offr
1 Cdn Disciplinary Centre

SCHEDULE.

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

Accused: **G-79135 Pte Francis EVOY X-4 List (13 Bn) HLI of C att 1 Cdn Disciplinary Centre**

Charge.	Plea.	Finding.	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
(Insert "alternative" where applicable.) 1st <i>AA 150</i>	<i>Guilty</i>	<i>Guilty</i>	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 403 in 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in loss of kit see RP 44 in 6.)

At present, under sentence for *being absent on duty* (4)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found in MF B335 or AF B296.)

Time in confinement awaiting present trial—a total of *41* days, of which *NA* days were spent in hospital. (1)
(1. See RP 46(A) in 2. Information should be found in MF B335 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for a period of two years —

(Sgd) *31 Mar 45* (Sgd) *George A. L. Ingo*
Judge-Advocate, if any. Date awarded. President. (RP 45, 50)
(See back of Covering Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 740.)

Date (Sgd) Commanding

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

(For duties and powers see AA 54, 57, RP 370(D) in 4, 46(A), 51-56, 120, MML pp 739-741, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 33, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing officers: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 in 1.)

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

Confirmed

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

Date *2 APR 45*

(Sgd) *W. G. Costling*
(G S W Costling) Brig

Commanding *2 Cdn Base Rgt GP*

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 33, KR Can 576, 577.)

Accused. Date. Signature of Offr.

C79135 Pte EVOY F

28 Apr 45

[Signature]

C.A.# 34 1-act
2/9-4-45

[Signature] Lt-Col
Centre 1 Cdn Disciplinary Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

RECORDED AT CMHQ IN AB 160

576-116

Order of Lt-Col J. Runcie, MC

Command 2 CBNG

dated 30 Mar 45

JAG (Hr.)
E.M.H.Q.

ACCUSED.

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

G-79135

PROCEEDINGS REVIEWED

Francis

*EVOY X-4 List (13 Bn)
HLI of C att 1 Cdn
Disciplinary
Centre*

REVIEWING OFFICER, JAG *[Signature]* PROCEEDINGS OF TRIAL.

Held in the FD in (country) *BELGIUM*

on (date(s)) *31 Mar 45*

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 29160

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fine NOs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Covering Order, CF A95, for words and instructions on how to record addresses, evidence, etc., which entries are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 72, 74, 94, 103, 119, 121.)

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

A3. The Court is opened. The accused is (are) brought before the Court. At *1415* hours trial commences. (1. See

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial. (1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO. (1. KR Can 537. 2. AA 46(B), RP 60 in 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to *no interpreter* — Ans *no*

The Interpreter is sworn. (1) Do you object to *no shorthand writer* — Ans *no*
The shorthand writer is sworn. (1) (1. RP 72. Delete, if none employed.)

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

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

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

President *Major G B E Cox* *GAC att 1 Cdn Disciplinary Centre*
Member *Major R. E. Lefroy* *Supdt Hqs att 1 Cdn Disciplinary Centre*
Member *Captain J. D. Tollock* *CO att 1 Cdn Disciplinary Centre*
Judge-Advocate
Prosecutor *Captain J. H. Labrie* *R. de Hqs att 1 Cdn Disciplinary Centre*
Defending Offr *Captain G. B. Costling* *RCA att 1 Cdn Disciplinary Centre*

Questions by President: Is the Prosecutor a lawyer? Ans *no*. Is the Defending Offr a lawyer? Ans *no* (1)

(1. RP 26, 27, 108, 111. List of Offrs under instr will be returned separately with proceedings for information of Court Offr.)
(2. If Pres a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (2) and in 2 were not followed. See D1 p 23.)

A8. The accused *G-79135 Pte Francis EVOY* before arraignment make(s) (no) *no* plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 420(F), 108), or in to the jurisdiction of the Court (RP 34, 35(A), 117), or in lieu of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 14, 71), such plea, the address made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fin to RP cited. Insert in AB rank and name of the accused making the plea.)

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. *[Initials]*

2 CBNG Vol 5 P 111

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

- I. If pleas to all charges are GUILTY, use Record Form B below.
- II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.
- III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

- (a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)
- (b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing insofar as may be appropriate to result of its decision. See MML p 744 Intro (2).

3. As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc. see RP 78-79, 86, 118; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.

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

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

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

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

President to accused: Do you wish to make a statement? Ans. No (1)
 (1. RP 37(B). 2. RP 37(D) fn 4. 3. RP 35(B) fn 3 para 1, MML p 54 para 47. 4. See para E1 of Record Form E.
 5. Statement, if any, recorded per Notes.)

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

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

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

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

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

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

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B6 of Record Form B above (1).
 (1. Under B3 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial therein proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

D2. The Prosecutor makes (an) (no) opening address (1).
 (1. RP 35(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).)

D3. The evidence for the Prosecution is taken (1).
 (1. RP 39(C), 114, KR Con 353. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. _____ Do you intend to call witnesses on your behalf? Ans. _____ Are they witnesses as to character only? Ans. _____
 (1. RP 111. 2. RP 46(A), see 30(C). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed (1).
 (1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 80(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 41, 103(e).)

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

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

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

RECORD FORM E--PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service (1), and certified true copy (specimen of Conduct Sheet) (2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(2) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused, Admitted in evidence and marked Ex E and Ex C respectively (1).
 (1. MML 313 or 315 294. 2. MML 313. 3. RP 44, KR Con 128. If above documents not produced, see RP 44 fn 1 para 1.)

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

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated (1).
 (1. AA 54(3), RP 120(A).)

E5. The Court considers the sentence (1). The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA or JA's (2).
 (1. Where several accused tried substantially see RP 71 (2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 40. As to sentence see AA 44, 128, 162, RP 44-50, 47, 118, 119(A), KR Con 128, 128, 162-166, Overton PD 301, 2223, MML p 60, 137-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 120. When accused already under sentence of imprisonment or detention see AA 44(1), 48(1), KR Con 364. 2. RP 30. As to release from arrest by Defending Offr see RP 367. As to assembly and disposal of record after trial see notes on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Exhibit F. 48

MFB 246

MEDICAL OFFICERS CERTIFICATE

(KR(Gan) Para 55)
(CMHQ CL 173)

I certify that I have this day examined C 79135
(No.)

Pte Gray F. and in my opinion he is
(Rank) (Name)

fit to undergo trial by Court-Martial.
 ~~unfit~~

Station 1 Cdn Disciplinary Centre

Date 31 Mar 45

Unit

[Signature] (Sgd)
(Medical Officer)
1 Cdn Disciplinary Centre

FIELD GENERAL COURT-MARTIAL

CPA90 (In lieu of AFM)
40/PAN/1407 (2048)

(Whether the accused to be tried is under his command or not, a FGCM may an application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate command of troops on active service, subject to RP 103(C) and restrictions imposed by appropriate authority. AA 49, SO, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, (ns, RA Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmt B.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
C-79135	Ite		Francis	EVCY	X-4 List (13 Bn) HLI of C att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 30 Mar 45 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

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

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

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

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

~~6. I also appoint as Judge-Advocate the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	G B E COX	CAC att 1 Cdn disciplinary Centre
(Rank)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

Major	A E LEYROY	Seaforth Highrs att 1 Cdn Disciplinary Centre
(Rank)	(Named or detailed. RP 106.)	(Unit.)
Capt	J D POLLOCK	Cdn Fus att 1 Cdn Disciplinary Centre
(Rank)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

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

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in BELGIUM
(Country)

Date 30 Mar 45

Commanding

2 Cdn Base Rft Gp

Convening Officer.

Lt-Col
(Rank)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See attached for notes and notes for use on trial.)

C H A R G E S H E E T

The accused, C-79135 Pte F Francis EVOY, X4 List
(13 Bn) HLI of Canada, attached to 1 Cdn Disciplinary
Centre, a soldier of the Canadian Army Overseas, is
Charged with:-

FIRST CHARGE
Sec 15 (1)
Army Act

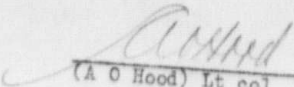
WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 0930 -
hrs 14 Dec 44 until apprehended at 1130 hrs 17 Feb 45 -

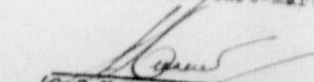
(Total Absence) ³⁴ days 2 hrs

In the Field
28 Mar 45


(A O Hood) Lt col
Commanding
1 Cdn Disc Centre

To be tried by Field General Court-Martial

In the Field
30 Mar 45


(G S H Gostling) Brig
A/C Comd
2 Cdn Base Rft Gp

Plea in mitigation in the case of C 79135 Pte EVOY, F.

The accused is 20 years old and unmarried

He ~~was~~ joined up in Canada in the NPAM before the war and was discharged as under age on the outbreak of war.

He joined up again at the time the OTC was opened at Brockville, served on the staff there for about 1 year and was again discharged as under age.

He joined a third time in April 1942 and came overseas
2 Apr 43

He went to France 18 Aug 44 and served with the ~~1st~~ HLI continuously until upon being wounded the third time early in October he was evacuated to hospital

He did not go absent from his unit but while at CBRG

The accused's father served with distinction in the last war and the accused cannot return and face his father unless he can get back into action and redeem himself

In view of the accused's extreme youth and the fact that he has been in action quite some time and has been wounded three times in all although the first two did not take him out of action, I ask that the court see fit to award a minimum sentence and give him an opportunity of again serving before having to return home and face his father

JOC Central Capt RCA 21 Mar 45
Defending Officer

Exhibit A 1985

Summary of Evidence in the case of C-79135 Pte F
EVOY, x-4 List 13 Bn HLI of C, attached to 1 Cdn
Disciplinary Centre, a soldier of the Canadian Army
Overseas.

Charge- Absence without leave

By direction of the CO the evidence is taken on oath.

The following documents are read over to the accused,
marked as Exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from
Pt 11 Order No 2 dated 8 Jan 45

Exhibit "B" - Certified true copy of Extract from
Pt 11 Order No 25 dated 5 Mar 45.

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

A. I have nothing to say.

The accused does not call any witness.

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

Maurice Rousseau Capt
(Maurice Rousseau) Capt

Officer detailed to take Summary of Evidence

Dated in the Field

28 Mar 45

Exhibit "A"

PART II ORDER EXTRACT FORM

M. Rousseau Capt

TO: Officer Commanding
1 Cdn DISCIPLINARY CENTRE
Cdn Army Overseas

09/307 34/X-HLI DE C/1(A50)

24 Mar 1945

EXTRACTS FROM: UNIT X4 list (13 Bn)-HLI DE C

Part II Order No. 2 dated 6 Jan 45

ABSENT WITHOUT LEAVE

AWL from 0930 hrs 14 DEC 44. X4 list (13 Bn)

C29135 Pte EVXX F

Certified to be a true extract from the
regimental books and documents in my
custody.

M. Rousseau Capt
Officer IC Records
Cdn. Sec. 2 Ech. HQ 21 A Cg

The following documents are { attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.

Originating Clerk's Initials

for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

Exhibit 'B'

M. K. ...

PART II ORDER EXTRACT FORM

TO: Officer Commanding
1 CDN DISCIPLINARY CENTRE
Cdn Army Overseas

99/207.34/X-RECORDS OF C/1(A5C)

24 Mar 1945

EXTRACTS FROM: UNIT X4 list (13 Bn) RECD OF C

Part II Order No. 25 dated 5 Mar 45

STRENGTH INCREASE

TDS X4 list (13 Bn) on app from des wef 1130 hrs 17 Feb 45.

C79135 Pte EVDY F

Certified to be a true extract from the
regimental books and documents in my
custody.

[Signature]
Officer IC Records
Cdn. Sec. 2 Ech. HQ. 21

The following documents are { attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.

Originating Clerk's Initials RAC

Officer in Charge
Canadian Section, GHQ, 2nd Echelon

Statement as to Character and Particulars of Service of Accused.

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

Number.	Rank.	Name.	Regiment (or as the case may be).
C-79135	Private	EVOY F	HLI of C

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

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

For	15(1) AWL	1	5	times.
For	10(4)		2	times.
For				times.
For				times.

Date of first entry in Field Conduct Sheet 29 Sep 43
Date of last entry in Field Conduct Sheet 16 Nov 44

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

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

4. The accused has been awaiting trial on the present charges for 4/8 days in civil custody; and for 41 days in military custody, i.e., N/A days in open arrest, 41 days in close arrest; of which N/A days were spent in hospital.

5. The present age of the accused is 20 years old

6. The date of his attestation is 17 Apr 42
calling up for military service

7. The service which the accused is allowed to reckon is _____

8. The accused is in possession of: GVSM & GLAS

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

Date of Promotion.

In the substantive rank of |||||||

In the war substantive rank of |||||||

In the acting rank of |||||||

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

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

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FGOM	FIELD 31 May 44	AVL 30 days	90 days down 10001 Fort 130 days pay	-----

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

Signed this 31st day of March 45

[Signature]
1 Cdn Detachment Centre

Place	Date of offense	Rank	Cases of drunkenness	OFFENSE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				<i>Certified true copy of MFM 6 in my possession.</i>					
				<i>Asst. Surg. Camp</i>					

LIST OF WITNESSES

N/A

LIST OF EXHIBITS

Certified true copy of Extract from Pt II Order
no 4 Dated 6 Jan 45 "A"

Certified true copy of Extract from Pt II Order
no 25 Dated 5 Mar 45 "B"

I, C-79135 Pte EVOY F
acknowledge having received one copy of the
Summary of evidence and one copy of the Charge
sheet free of charge on 28 Mar 45.

P. L. EVOY F.
C-79135 Pte EVOY F

BB-43 (case #4)

PTE EWART E.W.

See B-322 for 1st case

See E-175 for 2nd case

See F-81 for 3rd case

CCFY

Correspondence to be PINNED here.

Received this copy of original

5-32590 Pte EDWART James Walton
Carlton & York Regt.
No. 7 Cdn Reinforcement Unit

M. H. Haugh Case

Army Form A.3. 38-42

15 July 43 2

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

PROCEEDINGS.

On Active Service, this eighteenth day **A.**
of March, 19 43 Order convening the Court

Whereas it appears to me, the undersigned, an officer in Command of "D" Group, Canadian Reinforcement Units Canadian Army (Overseas), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

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

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

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

* Court if not applicable

~~I am unable to appoint --~~

- ~~(1. Three Officers to form the Court)~~
- ~~(2. A Field Officer as President)~~
- ~~(3. Three Officers having more than one year's service.)~~

for the following reasons, namely:--]

Proceedings Reviewed
W. B. Davidson, Capt.
Reviewing Officer (JAG) (CMBK)
14 APR 43

President.		
Rank.	Name.	Regiment.
Lieut. Colonel	D.L. Sedman	Colo. 210000
Members.		
Rank.	Name.	Regiment.
A Major	Fron	2 C.I.R.U.
A Captain	Fron	2 C.I.R.U.

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

*Signed "G. Hedley Gasher" Colonel
Commanding "D" Group, Cdn. Rpt. Units.
Convening Officer.

D.L. Sedman Lt. Col.

ARMY

CHARGE SHEET

The accused No. G 52300 Private James, Walton, SPART,
Carleton & York Regiment, on the strength of 7 Canadian
Infantry Reinforcement Unit as a reinforcement, a soldier
of the Canadian Army (Overseas) is charged with,

First Charge When on Active Service, absconding himself without
Sec 12(1) leave,
ARMY ADY

in that he,

at Algonquin Camp, Sicley, Surrey, absconded himself
without leave from 2359 hours 19th day of December
1942, until he surrendered himself to the
Leicester City Police at approximately 2109 hours
24th day of March 1943. There by incurring a credit
of apprehension to the amount of 18 shillings and
6 pence.

Total time absent 75 days 21 hours 6 minutes.

"J.R. Callan" Cd

(J.R. Callan) Colonel
Commander
7 Cdn. Inf. Bn. (A.C.)

In the Field
12th day of March
1943

To be tried by Field General Court Martial

G. Hedley Basher
G. Hedley Basher, Colonel
Commander
7th Group, Cdn. Inf. Bn.

In the Field
12 Mar 43

G.L. Hedman Lt-Col.

COPY

MEDICAL OFFICERS CERTIFICATE
C.R. (Can) Para 157

I certify that I have this day examined No. 682390
Pte. Swart, J.W. Carleton & York Regiment, 7 Cdn Inf Reinf Unit.
and in my opinion, he is fit ~~as a soldier~~ to undergo trial by
Court Martial.

Leipzig Barracks
Date.

E. Baker Capt.
Medical Officer.

"D. L. Redman" HSG

COPY

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT LITTLE BARRACKS, FORT BOURGEOIS, HANTS,
ON THE 19TH DAY OF MARCH 1943.

The accused G 32390 Pte. Ewart J.W. Unit GAY H. 7 CIBU

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by R.F. 22 & 23.

The accused is brought before the Court.

The Medical Certificate is laid before the Court.

The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the President or any member of the Court.

The Court is duly sworn.

The following constitute the Court:-

President Lt-col. D.L. WEDMAR, VC Unit G.H., G.I.B.

Members Major V.M. BROWN Unit G CIBU

Captain S.A.W. HOWARD Unit G CIBU

The officers under instruction are duly sworn:-

Lieut A. Moffat Unit G CIBU

Lieut R.J. DeMille Unit G CIBU

Prosecutor Lieut L.W. DORRIS Unit G CIBU

Defending Officer Capt. E.H. GROSS Unit G CIBU

The charge sheet is signed by the President and the accused is arraigned.

The accused pleads guilty to the charge(s) and R.F. 26(2) is complied with.

The accused does not desire to make a statement in reference to the charge(s). R.F. 27(2).

The Summary of Evidence is read.

18 The Prosecutor ~~examines~~ and produces ~~W.M. 222~~ and ~~W.M. 6~~.
APS 226

The Court complies with R.F. 46(3).

Pursuant to R.F. 27 THE ACCUSED:-

- (a) makes a statement in mitigation of punishment.
(b) ~~calls-witnesses-as-to-character~~
(c) ~~calls-witnesses-in-mitigation-of-punishment~~.
(d) addresses the Court by his Defending Officer.

The Court is closed to consider the sentence.

SUMMARY OF STATEMENTS IN MITIGATION, CHARACTER EVIDENCE, and
ADDRESS BY ACCUSED OR HIS DEFENDING OFFICER

File in mitigation of punishment by Defending Officer
attached hereto.

(sd) D.L. Wedmar, Lt-col.

RECORD of the Declaration of a Court of Inquiry assembled at
1 C.I.R.U. Algonquin Camp. on the 26th day of Jan. 1943
for the purpose of investigating and recording the absence,

without leave, from his duty, and deficiency, if any, in the Arms,
Ammunition, Equipments, Instruments, Rationals necessaries or
Clothing of No. G-32390 Pte. Swart G.W. (CYR) 1 C.I.R.U.

DECLARATION

THE Court declares that G-32390 Pte. Swart G.W. (CYR) 1 C.I.R.U.
illegally absented himself without leave from 2359 hrs. at
Algonquin Camp on 19th day of Dec. 42 and is still so absent and
that on the 26th Dec. 42 he was deficient and is still deficient
the following articles:

Knives S.B.	2	2-12-4	2-1-6
Trowsers S.B.	2	2-12-10	2-1-10
Boots ankle hgs.	2	2-2-2	1-12-2
Brass button	1	2-2-2	2-2-11
Lap comforter	1	2-1-8	2-1-8
Great coat	1	2-17-2	2-17-2
Comb hair	1	2-2-2	2-2-11
Discs identity	2	- - -	xxxxxxx
Dressing first field	1	2-1-1	2-2-2
Gloves woollen	1	2-2-7	2-1-11
Knife clasp	1	2-2-2	2-2-10
Shoes canvas	1	2-2-4	2-2-2
Shorts T.C.	2	2-2-2	2-2-12
Vests I.T.	2	2-2-2	2-2-4
Resp. canister	1	2-2-2	2-2-4
Resp. container	1	2-2-2	2-4-10
Resp. haversack	1	2-2-2	2-4-10
Eye shades A.S.	2	2-2-2	2-1-2
Ciniment A.S.	2	2-1-7	2-1-2
Cap A.S.	1	2-2-2-2-2-2	2-2-2
		12-2-2-2	10-12-2

Names of President and Members:
President Capt. J.A.S. Fare
Member Lieut. G.W. Weatherhead
Member Lieut. E.P. Thornton.

Signature of Commanding Officer "Col. A.S. Peresch."

Certified true copy. "E. T. Robinson, Lt."

Signature of Officer having custody of
original record.

COPY

By "B" "LST"

I CERTIFY that the man whose personal description is given below surrendered himself to T. TALLON, Sergeant LC.

at Leicester at (hour) 9.5 p.m. on the

8th day of March 1943 as being No. 9.32380

Rank and Name. Private Ewart, "E.J."

a deserter (or absentee without leave) from Aldershot

and it appears to me from his confession that he is a deserter or absentee without leave.

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

Age 34 Height 5 Feet 9 inches

Complexion Fresh Hair D/Brown Eyes Blue

Marked Nil.

In uniform or plain clothes Uniform

Probable Date and
Place of Attestation 4/9/39 Canada.

Probable Date of
Desertion or beginning
of absence, and from
what place 25/2/43 7th C.S.I.R.U.
Creecham Cross Roads,
Aldershot.

"Bk."

T. Abbotts O.C.S.

Signature of Officer of Leicester City Police Station
Police in charge of

8th March 1943. Date of Signature.

COPY

Expense Voucher Re-

Ex. "C"

LED.

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

Reg. No. 022390 Rank E2s Name ESANT, J. R. Unit 7 CIRU
 Carl. York

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

Date	Particulars	Amount	
12 Mar 43	Escorts return fare from LONDON To Leicester		7 6
	Prisoners single fare to LONDON From Leicester		7 6
	Prisoners fare from To		
	Escorts & Prisoners expenses for Bed. Meals, Bus fares		3 6
	Total £		18 6

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

(Sig. 111-10101)
 Officer Issuing Railway Warrant and Expense monies
 No. 6 Provost Company, Canadian Provost Corps, London.

COPY

Plea for Mitigation of Sentence, of
No. 9 32390 Pte. Ewart J.W.
Carlton & York Regt.
No. 7 C.I.R.U.

Apparently most of the accused's periods of absence without leave originated while he was under the influence of liquor.

He has had one continual period of absence after another and I beg the Court to make a recommendation that he be sent either to a Mil. Hospital or Institution where an attempt can be made to cure him of the "liquor habit".

I am sure the accused would welcome such a cure, if it can be effected.

Harnest E. Grouse,
Capt.
Defending Officer.

In the case of No. G 38390 Private James, Walton, SWART, of the Carleton & York Regiment, on the strength of 7 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer, this Summary of Evidence was taken under oath.

FIRST WITNESS
FOR THE
PROSECUTION

Lieut. L.E. Donkin, Cape Breton Highlanders, on strength of 7 Canadian Infantry Reinforcement Unit having been duly sworn states:-

"I am Lieut. L.E. Donkin, Cape Breton Highlanders, on strength of 7 Canadian Infantry Reinforcement Unit. I hereby produce the following Exhibits. Exhibit "A" A.P.S. 115 which relates to the accused whom I now recognise. Exhibit "B" Certificate A.P.O. 1619 purporting to be signed by the Police Officer in charge of the Police Station at Leicester, Leicestershire, relating to the accused whom I now recognise. Exhibit "C" C.M.S.A. 1888: 55 certificate of cost of apprehension.

The accused declines to cross examine this witness.

L.E. Donkin, Lieut.
(L.E. Donkin)

The accused having been duly cautioned in accordance with Rules of Procedure 4(E), reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused at Leipsic Barracks, Mesopot,汉口, on the 18th day of March 1943, and that Rules of Procedure 4(C), (D), (E), (F), and (G) have been duly complied with.

L.E. Donkin, Lieut.
(sgd).....

(L.E. Donkin)

(sgd) D.L. Redman, Lt-col.

In the Field
18th day of March
1943.

COF

No 332390 Name EWART, W. W.

Sqn, Battery,
or Company

Corps Carl't & York

Date of
enlistment

19-9-39

G.C.

Badges

Service or

Proficiency Pay

M.F.M. 6

(A.F.M. 12)

175M-7-41 (1215, 25)

11.12.1772-29-1822

Date of last entry in
Company Conduct SheetNo. and date
of last drunkPeriod not reckoning towards
freedom from extra fine

Sheet No.

Signature O.C.
Company, etc.

G. C. S. Holders

Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Number of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18-7-40	Pte		A.A. 15(1) A.V.L. 0600 hrs 16 Jul 40 to 1530 hrs 19 Aug 40		120 days detention	18-9-40	D.C.M.	35 days pay FRI 14(1)
Field	1-3-41	Pte		Absent from Guard mounting. A.M.S. 1630 hrs 1-3-41 to 0700 hrs 2-3-41: 0800 hrs 2-3-41 to 0630 hrs 3-3-41 0640 hrs 3-3-41 to 0830 hrs 3-3-41 0830 hrs 3-3-41 to 0100 hrs 2-3-41		28 days detention	18-3-41	Lt-Col. Mathewson	Forfeits 5 days pay Stoppage 6/10
Field	11-4-41	Pte		A.A. 14(4) breaking out of barracks while a defaulter. A.A. 15(1) A.V.L. 1830 hrs 11-4-41 to 1800 hrs 12-4-41	Cpl. Christie Cui. Evans	21 days detention	18-4-41	"	Forfeit 27 days pay

Officer having custody of original documents

Records Officer

T. J. J. J.

D. L. Adams

Place	Date of offence	Rank	Case of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4-5-41	Pte	A.A. 15(1)	A.A. 2200 hrs 6-5-41 to 0110 hrs 8-5-41; A.A. from 2000 hrs 6-5-41 till surrendering himself 0830 hrs 20-5-41	Lt. Butler C.M.A. Thomas Wright	one year imprisonment conducted to 12 months detention	12-5-41	F.C.C.M.	Released 11-10-41 Remission 60 days
Field	22-10-41	Pte	A.A. 15(1)	conduct to the prejudice of the service drunkenness	Faulstich S.S.M.	14 days S.P. diminished	27-10-41	Sol.	Mathewson
Field	1-11-41	Pte	A.A. 15(1)	A.A. 2200 hrs 1-11-41 to 2230 hrs 2-11-41		108 hours detention	2-11-41	Sol.	Mathewson
Field	6-12-41	Pte	A.A. 15(1)	wrecking out of barracks A.A. 0700 hrs 6-12-41 to 0840 hrs 20-1-41; A.A. 24(2) losing by neglect equipment and regimental necessaries.	Lt. Col. Blair C.M.S.	30 days detention	10-1-42	TRM	
Field	21-1-42	Pte	A.A. 22	when in arrest escaping	Sol.	1 year imprisonment	10 Feb 1942	S.M.C.	Released 16 Oct 42
			A.A. 15(1)	0700 hrs. 10-1-42 until apprehended by Civil Police at 1740 hrs 20-1-42	Wright Blair Dalany	sent conducted to 1 year detention by 100 I. C.M. Div.			Remission 119 days

By Lieut. A.E. J. Wray Lieut. Officer having custody of original documents.

7 2180

COPY
No.

Name

Sqn., Battery,
or Company

Corps

Date of
enlistmentG.C.
BadgesService or
Proficiency Pay

M.F.M. 6

A.F.M. 122
17254-7-41 (22-8)
H.Q. 1771-28-152Date of last entry in
Company Conduct SheetNo. and date
of last drunkPeriod not reckoning towards
freedom from extra fine

Sheet No.

Signature O.C.
Company, etc.

Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award of ad. order (beginning with trial)	By whom awarded	Remarks
Field	17-10-42	Pte		A. 415(1) A.F.L. 2200 hrs 17 Oct 42 to 0700 hrs 18 Oct 42	Sgt. Richard	14 days C.P.	19-10-42	Major Berninger	
Field	1-11-42	Pte		A. 4. 15(1) A.F.L. 2200 hrs 1-11-42 to 1600hrs 6-11-42; 4 days 12 hours. cost of apprehension 10s. 5d.	1/Cpl Walker	30 days detention	10-11-42		
					(sgt) A.V.E. Dancy			Lieut.	Officer having custody of original documents

COPY

M.F.B. 355
GEM-941 (572-2)
H.Q. 1772-39-620
A.F.B. 200

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
303390	Private	EWART S.W.	Carleton & York Regt.

1. The following is a fair and true summary of the entries in the _____ Service and General
Conduct sheets _____ Regimental and Squadron, Battery
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 _____ times	41	
For _____ times	8	0
For _____ times	11	2
For _____ times	11	1
Number of instances of gallantry or distinguished conduct	1	

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
Air Force Act A.F.A. 73
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.

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 1 days in
civil custody, and 10 days in military custody, making a total of 11 days in custody,
of which 11 days were spent in hospital.

5. The present age of the accused according to his record of service or
attestation paper is 38 yrs.

6. The date of his commission specified in his record of service or
attestation paper is 16 May 30.

7. The service which the accused is allowed to reckon towards discharge is 1 year. 011 days.
011 days

8. The accused is entitled to reckon 1 yr. 011 days service for the purpose of determining his pension, etc.
The accused is entitled to deferred pay or gratuity in respect of 1 yr. 011 days

9. The accused is in possession of or entitled to no air force decoration, or air force reward (as is the
military military
possessor of or entitled to). State any air force decoration or reward. 011 military

10. If the accused is a warrant officer.—The accused takes he was made a warrant officer last held
the regional rank of _____

(Sd) G. Beckman, Lt-col.

177B

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. 177B.

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 0.20380 Rank Private
 Name SWART, S. of Corpl's Coy 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
D.C.M.	Aldershot, 10 Sept 40	1. A.S. Sec. 15(1) AWL 0600 hrs 18 Jul 40 80 1830 hrs 18 Aug 40	120 days detention	
FCM	18 Jun 41	1. A.S. Sec. 15(1): AWL 2200 hrs 1-2-41 to 0115 hrs. 2-2-41 and 0600, 3-2-41 until surrendering at 0630 hrs 24-2-41 - 1 year imprisonment	80 days detention	80 days
FCM	10 Jan 42	(i) A.S. Sec. 15(1) AWL 0700 8 Dec 41 to 0640 hrs 30 Jan 42 (ii) A.S. Sec. 24(2) losing by neglect equipment and regimental necessaries	90 days detention	
FCM	10 Feb 42	(i) A.S. Sec. 20 When in arrest ment, attempted to escape. (ii) A.S. Sec. 15(1) by 0600 1 04m Div AWL 0700 hrs 18 Jan 42 until 18 Mar 42.	1 year imprison- ment, commuted to one year detention.	112 days

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 19 day of March 1942

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, signed A. J. S. Dwyer, Lieut. signed by the president, and annexed to the proceedings.
 for Records Officer 7 CIXU.

5U-111

Pte Ewart, J. S.

SCHEDULE.

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

Accused: A 738 Pte James Gordon EWART

Charge.	Plea.	Finding.	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 40 AA	<u>GUILTY</u>	<u>GUILTY</u>	
2nd Sec 40 AA	<u>GUILTY</u>	<u>GUILTY</u>	
3rd Sec 41 AA	<u>GUILTY</u>	<u>GUILTY</u>	
4th Sec 41 AA	<u>NOT</u> <u>GUILTY</u>	<u>GUILTY</u>	
5th Sec 40 AA	<u>NOT</u> <u>GUILTY</u>	<u>NOT</u> <u>GUILTY</u>	

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

At present session ~~was~~ not held (date) beginning on (date) (1)

Time in confinement awaiting present trial—a total of 26 days, of which NIL days were spent in hospital (2)

Sentence Awarded by the Court:
To undergo detention for a period of
Eighteen (18) months

(Sgt) 11 Oct 45 M. Hewitt
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

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

Date (Sgt) _____ Commanding _____

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

(For duties and powers see AA 54, 55, RP 27(D) fr 8, 49(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised AA 54(L). Sending back finding or sentence for revision by Court: AA 54(J), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 84. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing offer promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 171 fr 1.)

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

Confirmed

I ~~know~~ that the accused be not committed to prison or detention barracks until further orders (4)

Date 13 Oct 45 (Sgt) ER Little Bury
Commanding H Q CRU Confirming Officer.

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

Accused: A-738 Date: 20 Oct 45 Signature of Offr: [Signature]
Pte James Gordon Ewart
Promulgated and extracts taken 2042 15 Oct 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

CFM 40 (Ed 100 of AFM) 40/P & B, 1999 (6/44) 4/38B

Controlled by Order of [Signature] A/Comd A Qd CRU dated 4 Oct 45

ACCUSED.

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

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

A 738 Pte James Gordon EWART 8 Cdn Rept Dep

PROCEEDINGS REVIEWED

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) 11 OCT 45 on (date) 11 OCT 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant frs ROs. For guidance on procedure when a variation in this form arises, see form for GGM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 493 for notes and instrs on how to record addresses, evidence, etc. which notes are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 101, 119, 122.)

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

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

A3. The Court is opened. The accused is (new) brought before the Court. At 11 00 hours trial commences.

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

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

A5. President to accused: Do you object to an interpreter 1 Ans _____
The interpreter is sworn (1). Do you object to LT 117597 S. C. [Signature] as shorthand writer? Ans NO
The shorthand writer is sworn (1).
(1. RP 72. Delete, if none employed.)

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

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

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

President	<u>LT-COL</u>	<u>D. L. REDMAN</u>	<u>HQ CRU</u>
Member	<u>MAJOR</u>	<u>D. C. BARBER</u>	<u>5 REPAT</u>
Member	<u>CAPTAIN</u>	<u>D. D. SARVIS</u>	<u>5 REPAT</u>
Judge-Advocate			
Prosecutor	<u>MAJOR</u>	<u>G. W. HEWITT</u>	<u>8 REPAT</u>
Defending Offr	<u>LIEUT</u>	<u>W. E. HAGAN</u>	<u>8 REPAT</u>

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

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Court (RP 5).
(2. If Pres a lawyer and Def Offr not, accused is entitled to an adjournment when RP 57 (E) and fr 2 were not followed. See 57 p 3.)

A8. The accused _____ before arraignment make(s) (no) (A) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 706), or as to the jurisdiction of the Court (RP 34, 35(A), 178), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 30, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in frs to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (new) arraigned (supersedeas) on all charges in the charge sheet (1). The accused (no) objects to any charge (2). There is no amendment to be made to the Charge Sheet (3). The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 42; when several accused to be tried separately see RP 71(C), and use separate copies of CF 493 to record proceedings. 2. RP 21, RP 21. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 0 and B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

President to accused: Do you wish to make a statement? Ans NO - 31/1
(1. RP 37(B). 2. RP 37(C) fn 6. 3. RP 35(B) fn 5 para 3. MML p 54 para 47. 4. See para E2 of Record Form E. 5. Statement, if any, recorded per Notes.)

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO - 31/1
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) opening address.⁽¹⁾ NOTE - AIT
(1. RP 39(B), 40(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

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

D4. The Prosecution is closed.⁽¹⁾ The Defending Officer submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the _____ charge(s).⁽²⁾ The Court is re-opened, and the President announces that the submission is disallowed on the _____ charge(s), and allowed on the _____ charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).⁽¹⁾

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. NO - NONE Do you intend to call witnesses on your behalf?
Ans. YES - 31/1 Are they witnesses as to character only? Ans. NO - 31/1
(1. RP 115. 2. RP 40(A), see 80(C). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.⁽¹⁾
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 44(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the _____ charge(s), being subject to confirmation, will be promulgated later.⁽¹⁾ Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.⁽²⁾
(1. AA 34(3) (b), RP 45, 120(A). 2. AA 34(3), RP 45, 117. The alternative announcement is not applicable when there are pleas of guilty outstanding and dealt with under Record Form B or C.)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?⁽¹⁾
Ans. NO - 31/1
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses on oath. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service,⁽¹⁾ and certified true copy (copies) of Conduct Sheet(s),⁽²⁾ purporting to refer to the accused, which he submits to the Defending Officer for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(i) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. 45 and Ex. 46 respectively.⁽³⁾
(1. RP 35 (B) or (C), 46(D). 2. AA 34(3) (b), 120(A). 3. RP 44, KR Can 518. If above documents not produced, see RP 46 fn 1 para 3.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?⁽¹⁾ Ans. NO - 31/1 NOTE - AIT
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 2.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.⁽¹⁾
(1. AA 34(6), RP 120(A).)

E5. The Court considers the sentence.⁽¹⁾ The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.⁽²⁾
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to each all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 120, 122, RP 44-50, 87, 118, 119(A), KR Can 308, 330, 343-344, Overseas AO 307, 2222, MML p 60, 757-758. As to sentence imposed for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 41(B), 46(1), KR Can 504. 2. RP 30. As to release from arrest by Convening Officer see KR Can 547. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

NO 8 CANADIAN REPATRIATION DEPOT
CANADIAN ARMY ENGLAND

CHARGE SHEET

In the case of

A-738 Private James Gordon EWART, of No 8 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

At approximately 1330 hrs 14 Sep 45 at the YMCA in Farnborough did use obscene language including the words "fuck" and "whoring" in front of the female help employed in the canteen.

SECOND CHARGE
Sec 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at approximately 1355 hrs 14 Sep 45 at Lynchford Road, Farnborough, Hants, did use obscene language in public referring to W-13399 Pte Buchapan, M (CWAC) as "a goddam fucking CWAC".

THIRD CHARGE
Sec 41
Army Act

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY -- COMMON ASSAULT

in that he

at approximately 1355 hrs at Lynchford Road, Farnborough, Hants assaulted W-13399 Pte Buchanan, M (CWAC).

FOURTH CHARGE
Sec 41
Army Act

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY -- ASSAULT CONTRARY TO SEC 47 OF THE OFFENCES AGAINST THE PERSONS ACT 1961.

in that he

at approximately 1400 hrs 14 Sep 45 on Queen's Avenue Farnborough, Hants, assaulted W-20144 Pte Staff, E D (CWAC) thereby causing her actual bodily harm.

FIFTH CHARGE
Sec 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at approximately 1355 hrs 14 Sep 45 at Lynchford Road, Farnborough, Hants, did use obscene language in public referring to W-20144 Pte Staff, E D (CWAC) as "a goddam fucking CWAC".

W. A. Marks

(A D'A Marks) Lt-Colonel
Officer Commanding
"A" Wing
8 Cdn Repat Dep

Blenheim Barracks
Farnborough, Hants
2 Oct 45

...../over

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
4 Oct 45

Sioux
(K S Bjorn) COL,
T/Comd A Gp CRU CA(O)

FIELD GENERAL COURT-MARTIAL

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

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appointment, rank or appointment, if any, see AA 182, 183, (ns, KR Can 308, 328, 330.)

ACCUSED.

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

A 738 Pte James Gordon EWART 8 Cdn Repat Dep

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~been~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) ~~3 Oct 45~~ endorsed by me, ~~(as by an officer of my staff for me)~~. "To be tried by Field General Court-Martial".

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

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

~~I am unable to appoint (a) three Officers to form the Court; (b) a Field Officer as President; for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)
 3. I also appoint as Judge-Advocate thereof the Officer mentioned hereunder.
 (RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt Col D. L. Redman, ED (Rank) (Must be named. RP 106.) Sq CBU (Unit)

MEMBERS.

Major D C Barker (Rank) 5 Cdn Repat Dep (Unit)

Capt D D Jarvis (Rank) (Named or detailed. RP 106.) 5 Cdn Repat Dep (Unit)

WAITING MEMBER.

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

JUDGE-ADVOCATE.

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

On Active Service in the Field

at England (Country) (Signed personally RP 105 (b) 2) (Rank)

Date 4 Oct 45 Commanding A/Comd A Op CBU Convening Officer.

CONVENING OFFICER WILL INITIAL ALL DELETIONS AND ALTERATIONS

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8 CANADIAN REPATRIATION DEPOT

MEDICAL OFFICER'S CERTIFICATE

I certify that No. *A. 738* Name *Pte. Ewart J. G.*
of *1st Cdn. Repat* depot, is fit/~~unfit~~ to undergo
trial by Court-Martial, this day *11* Oct 45.

My
P. J. King
.....
Signature of Medical Officer
"A" wing, 8 Cdn Repat Depot

TRIAL OF

A-738

PTE

EWART

J G

8 CDN REPAT DEPOT

ON THE THIRD, FOURTH AND FIFTH
CHARGES

THE PROSECUTOR TO THE COURT

It will be necessary in this case to have Pte Staff state to the Court under oath the words uttered by the accused in her presence. I'd like to avoid the necessity of having this witness utter those words in this Court and I suggest that when the relevant questions are asked her that the Court allow her to write the words on a piece of paper which can then be shown to the Defending Officer, and the said words so written can be incorporated into the records as though she had uttered them instead of writing them.

DEFENDING OFFICER TO THE COURT

I agree to that procedure as I don't see how it can in any way prejudice the accused.

THE PRESIDENT TO THE PROSECUTOR

The Court agrees that that matter will be dealt with in that manner.

OPENING ADDRESS BY THE PROSECUTING OFFICER

The accused has plead guilty to two charges. The accused was coming out of the YMCA Hostel in Farnborough on 14 Sep 45 at about 1400 hours. He was with another Canadian soldier and they appeared to have been drinking. They stopped two CWAC girls and the accused was a little rough with one of the girls and pushed her around and she, in self-defence, struck him. During that period, an English Sgt saw this disturbance and came over and the accused struck the Sgt in the mouth and the two girls got away. Later, the same two soldiers in the same vicinity struck Pte Staff who was going from one building to another and out of the blue the accused started swearing at her, the words are in the charge sheet, he struck her; she eventually broke loose and went for help. While she was getting help, she was still insulted by the obscene words used by the accused. Subsequently, the Provost were contacted and the accused gave himself up and he was duly brought up with a group of other men at an identification parade and almost all of the witnesses positively identified him. I will prove beyond all reasonable doubt that he is guilty of these charges.

PROSECUTION

FIRST WITNESS

6458200 SGT GOODBY CJ, sworn, states?

- Q. Where were you at approx 1400 hours on 14 Sep 45?
A. I was standing on Lynchford Road opposite the Harrington Soldiers' Home. My duties were:- I had been sent there to try and identify an escaped prisoner from a military prison. My attention was led by a woman, Sir, unknown, Sir, to an incident which was

place near the North Camp Hotel.

- Q. Did the accused have anything with this incident (pointing to the accused)?
A. Yes.
- Q. Was he accompanied by another Canadian soldier?
A. Yes.
- Q. What happened?
A. I proceeded to that particular point and I saw the accused whom I recognize in this Court attacking a woman who was in civilian clothes; there were two women concerned. I saw this man the accused strike one of the women, Sir.
- Q. Did he strike her with his fist?
A. Yes, he struck her with his fist.
- Q. Did he appear to be under the influence of alcohol?
A. Yes, Sir.
- Q. Did he use any language?
A. Yes, he used vile language, foul language; he was shouting "you fucking bastard" and "you English bastard".
- Q. Did you attend an identification parade?
A. Yes, Sir.
- Q. What happened at the identification parade?
A. At the identification parade there were twelve formed up in the hut. I was asked to go along the line and pick out any man whom I could see there who took part in the incident on 14 Sep 45. Without any hesitation whatsoever, I pick this man out, Sir.

CROSS-EXAMINED

- Q. You say the accused was striking a CWAC, how did you know?
A. I didn't know that it was a CWAC at the time as she was dressed in civilian clothes.
- Q. Where did he strike her?
A. He was striking her with his fist; I don't know if he struck her in the face or not.
- Q. Do you know now who she is?
A. Yes, Pte Buchanan and she was with Pte Mackenzie.

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

SECOND WITNESS

W-13399 PTE BUCHANAN M, CWAC, sworn, states:-

- Q. Do you recall what you were doing around 1330 and 1400 hours on 14 Sep 45?
A. Shopping, Sir.
- Q. Did you during that time see the accused?
A. Yes, Sir.
- Q. Was he with another Canadian soldier at that time?
A. Yes, Sir.
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- Q. Describe to the Court what the accused did?
A. He grabbed me by the shoulder; he started to push me around and said he wanted to ask me a question. I said that I didn't have time as I knew he was drunk. I tried to go on.
- Q. Did you do anything in self-defence?
A. Yes, I slapped his face.
- Q. What occurred after that?
A. He took his jacket off and I got clear of him and went across the street.
- Q. Why did he take his jacket off?
A. Because when I slapped him he was really going to fight me.
- Q. What happened next?
A. That's all I saw.
- Q. Do you remember clearly where he struck you?
A. He didn't strike me.
- Q. Did he appear to be under the influence?
A. Yes, Sir.
- Q. Can you describe the circumstances under which you later identified him?
A. At an identification parade at "C" Wing, 8 Repat. The accused was amongst other men and I had no trouble identifying him.

CROSS-EXAMINED

- Q. You say that he began to push/around, ^{you} is that correct?
A. Yes, Sir.
- Q. Is it not possible that he fell against you?
A. No.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 63 (B).

THIRD WITNESS

W-1053 PTE Mackenzie I., C.W.A.C., sworn, states:-

- Q. Do you recall what you were doing between 1330 hours and 1400 hours on 14 Sep 45?
A. I was shopping, Sir.
- Q. Did you see the accused around that time?
A. Yes.
- Q. Was he accompanied by another Canadian soldier?
A. Yes, Sir.
- Q. Tell the Court what happened?
A. We were in Farnborough at the corner by Boot's Drug Store, Sir, and he came around the corner from the direction of the YMCA; then the accused asked Pte Buchanan if he could ask her a question; seeing that he was drunk she went around the other side of him; he grabbed her by the shoulder and he started to swear at her. Pte Buchanan slapped him.
- Q. Before Pte Buchanan slapped him what was the accused doing?
A. He was shaking her and swearing. He started to take off his coat. Then an English Sgt came along and tried to stop him. I imagine, from striking her. We left then and went across the street.
- M

Fucking Great Bastard.

" A "

My

Q. Did the accused appear to be under the influence of alcohol?
A. Yes, Sir.

Q. Were you later at an identification parade?
A. Yes, Sir, and I couldn't identify the accused, Sir.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 63 (B)

QUESTIONS BY THE COURT TO THE THIRD WITNESS

Q. How were you dressed?
A. In civilian clothes, Sir, with my army rain-coat and slacks; Pte Buchanan was dressed in the same way.

FOURTH WITNESS

W-20144 PTE STAFF, ED, CWAC, sworn, states:-

Q. What are your duties with the CWAC?
A. I work in the Orderly Room as a clerk.

Q. Do you recall any particular incident that happened around 1400 and 1430 hours on 14 Sep 45?
A. Yes.

Q. In the course of your duties at that time did you see the accused and another Canadian soldier?
A. Yes, I was on my way to the AIMS office to have some papers signed.

Q. Did the accused call you anything?
A. (The witness wrote the words down on a piece of paper which was shown to the Prosecutor, to the Defending Officer, to the accused and to the Court. The slip of paper was then handed to the court stenographer) The note read "fucking CWAC bastard". The note is attached to this sheet and *marked A*

Q. Did he do anything else?
A. Yes, Sir, he grabbed me by the arm and hit me in the face. He kicked me on the ankle. I tried to struggle there the best I could. I got away.

Q. Did he appear to be under the influence of alcohol?
A. Yes, Sir. Then I struggled away from him and went down by the post office where I saw a Canadian S/Sgt there. I asked him to help me. He said he was new here and he didn't help me.

Q. Did you receive any injury?
A. I was hit on the chest and on the arm which was bruised.

Q. Any injury to any part of your face?
A. Just my eye; the other fellow stuck his finger in my eye. He was with the accused.

CROSS-EXAMINED

Q. Where exactly on Queens Avenue did this happen?
A. By the Clock Tower.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 63 (B)

MP

FIFTH WITNESS

W-100343 SGT SCOTT FI, CWAC, sworn states:-

- Q. What are your duties with the CWAC?
A. Orderly Room Sergeant.
- Q. Do you recall anything unusual happening on 14 Sep 45?
A. Yes, it was my afternoon off and I was sitting in my room by the window and I saw Pte Staff alone by the corner of the O Rm; she was crying; she asked me to come over and see her.
- Q. Could you tell the Court in what condition you found her?
A. She was all bruised on her ~~xxx~~ leg and her arm was all red and looked as though it had been pinched. Her left eye was red and blood-shot.
- Q. Did Pte Staff tell you what happened to her?
A. Yes.

NO CROSS-EXAMINATION

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

SIXTH WITNESS

B-94843 S/Sgt Brown, WM, SIS, Cdn Provost Corps, sworn, states:-

- Q. What are your duties with the Provost Corps?
A. I am employed as investigator in the SIS.
- Q. Have you ever seen Pte Ewart, the accused?
A. Yes, I have.
- Q. Do you recall any circumstance in which the accused was involved?
A. Yes, I did. On receipt of a telephone call at our office at about 1415 hours from the CWAC O RM, HQ CRU, I was instructed to investigate a girl alleged to have been beaten up on Queens Avenue by two Canadian soldiers. I immediately proceeded to the CWAC O Rm where I saw Pte Staff. She appeared highly excited; her right cheek was marked and to me appeared to be gathering contusions and she complained of her eye being scratched by a finger nail. She showed me her right arm and it had finger marks. Her bruises were almost blue at that time. She also showed me her lower limbs which had marks about the shins and ankles. She couldn't give a description of the soldiers concerned at that time. We received a further complaint up the street and I proceeded to Farnborough Police Station where I contacted Sgt Goodby and Sgt Radcliffe. I also saw Pte Buchanan and Pte Mackenzie. After briefly listening to their story, Sgt Radcliffe handed to me an address book found at the scene of the disturbance with Ptes Buchanan and Mackenzie. (The witness says) This is the book which was handed to me.

(ADDRESS BOOK MARKED EXHIBIT 1 BY THE COURT)

I then returned to our own office and instructed all personnel under my command to patrol the area, to visit pubs and if possible to apprehend two soldiers as described to us. I, myself, made a study of that address book and as a result of it and with the cooperation of the duty officer at Records, Acton, I segregated a Pte Ewart as being at "C" Wing, 8 Repat.

MB

I visited "C" Wing, 8 Repat at about 2200 hours on 14 Sep 45 and I found that a Pte Ewart had proceeded on leave to an address in Brighton which appears in that address book. Then I immediately detailed a patrol to Brighton to the said address, where the police went and as a result the accused gave himself up at 1700 hours on 15 Sep 45. He was escorted to the SIS office at HQ CRU where he admitted to me the identify of the address book saying it was his book and wanted to know how I got in possession of it. He was then held in custody until 17 Sep 45 when I arranged and conducted an identification parade at which time there were nineteen men on parade dressed similarly to Pte Ewart, fourteen of whom wearing the same shoulder flashes and formation patches. The parade was held in the presence of Lt Hagan at which time five witnesses examined the parade. Pte Ewart was identified by all of the witnesses with the exception of Pte Mackenzie. Sgt Goodby examined the parade first; then Sgt Radcliffe, Pte Buchanan, Pte Mackenzie, and Pte Staff. Pte Ewart was then handed over to the NCO in charge of the detention barracks at "C" Wing, 8 Repat, and the Adjutant verbally informed of the circumstances surrounding the case.

NO CROSS-EXAMINATION

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

SEVENTH WITNESS

Capt JA McNeill, RCAMC, HQ CRU, sworn, states:-

Q. Whereabouts are you Medical Officer?

A. HQ CRU.

Q. Do you recall examining for bodily injuries a Pte Staff, a CWAC?

A. I do.

Q. What time was this you examined Pte Staff?

A. It was in the afternoon of 14 Sep, late in the afternoon at 1530 hours and 1600 hours. And I said at that time and as I examined her, my opinion was at the time following her episode I felt that her condition was mainly shock which is a condition or physical state which will be manifested anywhere from just plain nervousness to unconsciousness. This young woman showed evidence of nervousness; she looked pale; her hands were trembling. She could not express herself properly.

Q. Were there any bruises?

A. On the right arm, all minor, of minor nature. Nothing else that I remember.

Q. Have you examined Pte Staff since that time?

A. Yes.

Q. Is she suffering from anything as a result of this injury?

A. If you are referring to an examination of that sort, I can express only an opinion on that; you may go further in your questioning.

Q. On your later examination was Pte Staff suffering from anything?

A. Well, when I examined her on the second occasion, and she had a lump on her right breast. I will express an opinion and in addition my opinion. William Boyle, one of the great pathologists and he expressed in his text-book on General Pathology, and in expressing that he also was agreeing with another well-known pathologist, Ewing, that at no time has there ever been definitely proved in medical analysis that a single blow will result in tumor or cancer and be the cause of anything that would

of any severe nature, foreboding nature. I expressed my opinion at the time that it was a cist.

- Q. Is it possible for a cist to be caused by a blow?
A. Yes, it is possible.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 63 (B).

THE PROSECUTOR THEN SAID THAT THE OTHER WITNESSES MENTIONED IN THE SUMMARY WOULD HAVE GIVEN EVIDENCE WITH RESPECT TO THE FIRST TWO CHARGES ON WHICH THE ACCUSED HAS PLEADED GUILTY.

PROSECUTION IS CLOSED

DEFENCE

FIRST WITNESS

B-63409 PTE I FREEMAN, 8 REPAT, sworn, states:-

- Q. Were you with Pte Ewart all afternoon ~~xxxxxxxxxxxx~~ on 14 Sep 45?
A. Yes, Sir.

- Q. Were you at an identification parade?
A. Yes, Sir, I was not identified at the parade, by all; I was by one English Provost Sergeant and by one CWAC; her name is I think, Pte Buchanan, the small one.

- Q. You didn't leave Pte Ewart at any time in the afternoon?
A. No, Sir.

NO CROSS-EXAMINATION

QUESTIONS BY THE COURT

- Q. Had you been drinking that afternoon?
A. Yes, Sir.
Q. How much?
A. Quite a bit.
Q. Did you think the accused was drunk or sober?
A. Fairly drunk, Sir.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 63 (B)

DEFENCE IS CLOSED

STATEMENT BY THE DEFENDING OFFICER ON THE FINDINGS

As was shown from the evidence given by Pte Buchanan, CWAC, Pte Ewart did not actually strike her. My contention is that when Pte Ewart grabbed her by the arm, he did it only to get her attention. As for pushing her around, a man who is unsteady on his feet could very easily fall against Pte Buchanan so that she would believe he did assault her. With reference to the last charge he was charged with saying that and actually he didn't say that.

MM

STATEMENT BY THE PROSECUTION OFFICER ON THE FINDINGS

As you have heard from all the witnesses' evidence, their evidence is almost identical; the circumstances are the same although they involve three different occasions and three different parties. I am sure that the Court is sure beyond all reasonable doubt that the accused committed all these charges. In one case he has pleaded guilty of swearing at two CWACs, Ptes Buchanan and Mackenzie. Three incidents happened practically in the same area at the same time; he was positively identified by Pte Staff as the chap who beat her up. He has the same language in all the three occasions; he has picked on the same people; he was accompanied by somebody else; he was positively identified at the identification parade by the injured people.

MM

Statement in Mitigation

Pteewart throughout the whole of the afternoon was quite drunk. When a person is drunk, they especially who have served in the field where normally you are in the company of men and ^{usually} language is no care, they are very likely to revert to this state that has become natural to them in use of bad language, rather than ^{with} any intent to ~~be~~ offend.

W. H. Hagan

E-3

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8 CANADIAN REPATRIATION DEPOT

SUMMARY OF EVIDENCE

in the case of

A-738 Pte Ewart J.G. 8 Canadian Repatriation Depot (Transient) a soldier of the Canadian Army Overseas taken at 8 Cdn Repat Depot 25 Sep 45.

The Commanding Officer directs this evidence be taken on oath.

FIRST WITNESS: 6458200 Sgt Goodby C.J. having been duly sworn states:

"Approximately at 1355 hrs on the 14th Sep 45, I was placed on duty at Lynchford Road sir, I was standing on Lynchford Road facing the Soldiers Home when a woman unknown drew my attention to some trouble on the Lynchford Rd opposite the North Camp Hotel, on proceeding to the scene I noticed that the accused had caught hold of a woman, and being in plain clothes I did not know who she was, and he was striking her with his fist, a second woman, sir was attempting to protect the first named, and I actually saw her slap the accused on the face. I immediately attempted to restrain the accused, sir, but tried to reason with him, ~~he would not listen to me~~ he would or go away and he struck me in the mouth, I still struggled with this man, sir, and blew my whistle to attract the attention of the civil police or my friend who was on duty a little way up the road - the other soldier who was with this man, at did try also to take his pal away but he still insisted and he wanted to fight me and in the course of my duty I am not allowed to do such a thing, sir, and with the assistance of Sgt Reidcliffe we allowed the man to be taken away by his friend, sir.

The reason we let him go away, sir, was to avoid further trouble Canadian forces, also knowing we could identify the accused later-all the time the struggling was going on sir, this man was uttering insulting and obscene language that is say calling towards the British public "a lot of English Bastards" this man was taken away by his friend and proceeded down Queens Ave. I reported the matter straight-away to the civil police and accompanied the police constable into camp road where we picked up the two women concerned and took statements I recognize the accused Pte Ewart as the man which was the cause of all the trouble."

Questions by the accused:

Q1. Sergeant when you stopped me from talking to the girl you said there you seen me hit her? I don't remember hitting her but I remember her slapping my face you said I was using profane language?

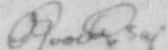
A1. Correct.

Q2. Was I actually hitting the girl?

A2. You were actually hitting the girl when I arrived on the scene.

Q3. Was my friend trying to get me away?

A3. Your friend was attempting to get you away from it.


(C.J. Goodby) Sgt
M.P.S.C.

SECOND WITNESS W-13399 Pte Buchanan M. C.W.A.C. having been duly sworn states:

"We were headed down Lynchford Rd, and as we got to the corner of Camp Rd that is to say Pte Mackenzie and I, we met the two Canadian soldiers and you could see that they were drunk that is to say that they were wobbling pretty badly and so we went on to the road to avoid them then Pte Ewart grabbed me and said he wanted to ask me something and I said I was in a hurry and did not have time to listen and we proceeded on our way then Pte Ewart stopped me and began pushing me around and trying to hit me he was using very obscene language that is

to say (called me a Goddam fucking CWAC) (This was written in short on paper by Pte Buchanan as she declined to say it verbally. AFP "A") then I hit him after that he took off his jacket right then we walked across the street the other chap followed us who was with Pte Ewart and grabbed me by the collar, the PLDG fellow, and was going to beat me up so I dared him to but he did not so that all ended it and he went back to Pte Ewart the next time I saw them they were walking down towards the CWAC Barracks.

Q1. Did I actually hit you?

A1. No.

Q2. Did you see two English Sergeants stop and argue with me?

A2. Yes.

Q3. Was I fighting with them?

A3. I could not say if he was fighting or not.

Pte Buchanan

W-13399 (Buchanan H.) Pte
C.W.A.C.

Witness withdraws

THIRD WITNESS

W-1053 Pte Mackenzie I. C.W.A.C. having been duly sworn states:

"Pte Buchanan and I went up town shopping and when we got to the front of Boot's Drug Store two Canadian Soldiers came around the corner and one of them stopped Pte Buchanan and he said he wanted to ask her something and I noticed they were a little bit on the high side that is say they weren't walking exactly straight and Pte Buchanan said she did not have time to talk to them and she tried to pass to the left of one of them and he grabbed her and then he started using obscene language that is to say (Here Pte Mackenzie wrote down what the accused called her (Exhibit B)) Then I saw Pte Buchanan slap him then he removed his coat and was going to start to fight then we tried to separate them then some English sergeant came along then we walked away then the other chap followed us- first he apologised for what had happened and then he told him to go back then the other one not Pte Ewart grabbed Pte Buchanan by the collar and he threatened to hit her too for slapping his boy friend then I pushed him away and told him to go back so he said I'll listen to you and then he went away."

Q1. Did I hit your girl friend?

A1. No you didn't.

"I recognize Pte Ewart as the one who was annoying Pte Buchanan.

Israel Mackenzie

W 1053 (MacKenzie I.) Pte
C.W.A.C.

Witness withdraws

FOURTH WITNESS

L 106336 Pte Stutt J, having been duly sworn states:

Pte Sargent and myself walked into the YMCA at approx 1400 hrs in the afternoon and we saw two Canadian soldiers sitting down with the women in the Y.M.C.A. in Farnborough and we were there just a few minutes when they became rather rowdy and I asked the girl if they were a nuisance and she said she was scared of them so we walked over to ask the soldiers if they would be more quiet and immediately this chap the accused who is here now jumped up and started using foul language that is to say "So fucking Canadian 2nd Div was going to do that to me"

so I tried to explain to him that I didn't want to do anything to him but we would like them to be more quiet he then started to attempt to fight. I took the other soldier outside and just then the proprietor of the Y.M.C.A. came along and we tried to talk the two of them into leaving quietly after a lot more swearing and cursing on there part."

Q1. Did I not apologise to the superintendent?

A1. Yes.

J. Stutt

L 106336(Stutt J.)Pte

The witness withdraws

FIFTH WITNESS

B 148483 Pte Sargent G.E. having been duly sworn states:

"At approx 1400 hrs when Pte Stutt and I went into the Y.M.C.A. to have a game of chess we noticed two fellows sitting in the corner and some Y.M.C.A. girls who work in there were sitting there with them when we came in the women got up to see what we wanted then these two fellows started getting rowdy and swearing saying "whoring" this and "fuck" that so Stutt started talking to the lady behind the counter and I heard him say something like "do you want the boys to leave" so then he looked at me and we went over to sort of talk to them, but we didn't have a chance to say anything right away they jumped up and demanded a fight and Stutt just reached around and took the tallest of the two and took him outside. I held the other one in there that is to say Pte Ewart who is here now and soon after Stutt came back in with the other fellow. I then tried to get Pte Ewart to leave and the Y.M.C.A. supervisor came in too and then they finally went away, and we got outside Pte Ewart said he was sorry and he did not want to cause any trouble and then he asked them how much he owed them and the Y.M.C.A. supervisor told them it was alright and they started up the path."

The accused declines to cross-examine the witness.

G.E. Sargent

Pte(Sargent G.E.)B 148483

The witness withdraws.

SIXTH WITNESS

P.C.3 H.A.C. Blackwell of the Hampshire Joint police force having been duly sworn states:

"At 1400 hrs on the 14 Sep 45 I was on duty at Farnborough Police Stn and I received a report by telephone to the effect that there were some Canadian Soldiers fighting near Books Shop on Lynchford Road. I at once visited the scene and on my arrival was met by two sergeants of the M.P.S.C. who stated that they had dispersed the soldiers and had sent them on thier way along Queens Ave. I inquired as to the cause of the disturbance and was informed that one of the Canadian soldiers had grabbed the two women in civilians and the two sergeants then intervened and this developed in a fight between the two soldiers and the Canadian soldier I found the two young women who proved to be members of the C.W.A.C. one of them Pte Buchanan complained of bruised arms and presented a somewhat dishevelled appearance the other girl Pte MacKenzie did not complain of bruises but appeared rather nervous I took statements from both the girls and from the two NCOs and then commenced inquiries with the DAFW.

The accused declines to cross examine the witness.

H.A.C. Blackwell

(H.A.C. Blackwell) P.C.3

I certify in my opinion, the attendance of 5378605 Sgt Ratcliffe F is, owing to the fact that he is now discharged from the army and not readily procurable and a written statement of his evidence, signed by him, has been read to the accused and has been attached here to as Exhibit "C".

G.H. Robinson Lieut.

(G.H. Robinson) Lieut

Officer detailed to take summary

EXHIBIT "C"

SEVENTH WITNESS

Herewith a certified true copy of statement of 5378605 Sgt Ratcliffe F.

"Sir, at about 1.55 hrs on the 14 Sep 45 I was on duty in Lynchford Rd, Farnborough, Hants when suddenly I heard a whistle blown, on going in that direction, I found Sgt Goodby restraining two Canadian soldiers from attacking two girls, I immediately went to his assistance and during the struggle Sgt Goodby was struck in the mouth by one of them and the language these two soldiers were using was simply terrible, after a while they were taken away by some other Canadians."

Statement made to the civil police Sir,

No. 5378605 Sgt Ratcliffe F.
No. 1. M.P.S.C.

Certified True Copy

G.H. Robinson Lieut.

(G.H. Robinson) Lieut

Officer Detailed to take summary

"I do not require the attendance of 5378605 Sgt Ratcliffe F. for the purpose of cross-examination."

Signature of accused

J.G. Ewart
(J.G. Ewart) Pte A-736

EIGHTH WITNESS

W-100543 Sgt Scott F.I. CWAC having been duly sworn states:

"I was in my room between 1400 and 1430 hrs sitting by the window and I saw Pte Staff C.W.A.C. at the corner of the orderly room, she was crying and she asked me to come over. I went over and I asked her what had happened she said she had been beaten up by two Canadian soldiers she had a bruise on her leg and her arm was all red and it as if it had been pinched. Her one eye was red and was blood shot. I asked her if she could give me a description of the boys she said that they were wearing red patches and dark flashes then I went and called Miss Gilmore and she came out and was speaking to Staff and then she went and called the provosts."

Q1. Did you say they wore red patches and dark flashes?

A1. Yes.

F.I. Scott
(F.I. Scott) Sgt W-100543
CWAC

The witness withdraws.

NINTH WITNESS

W-4222 Pte Perkins J.E. CWAC having been duly sworn states:

"I was in my room in Grant Square at approx 1450 hrs and I heard someone coming along the street using rough language. in fact it was very rough one chap was quite mad and he was bound and determined he was going back down town and find these two CWAC's regardless of what happened to him and the taller of these two chaps was doing his level best to talk him out of it. He told him he would only get into more trouble but that was the least of his worries as he was pretty tight by that time I knew by the way he was talking and by the way he walked, and his knees were a little on the wobbly side that he was tight, they didn't stand very long outside the window and then they went off down the street.

I don't recognize the accused in front of me now."

The witness declines to cross examine the witness.

J.E. Perkins
W 4222(Perkins J.E.) Pte
C.W.A.C.

The witness withdraws.

M

LEWIS WITNESS

EXHIBIT "D"

[Signature]
(G.H. Robinson) Lieut

Herewith certified true copies of statement of
Capt J.A. McNeill R.C.A.M.C., HQ GRU.

[Signature]
(G.H. Robinson) Lieut

Officer detailed to take summary

HQ GRU M.I.R.

27 Sep 46

MIR REPORT

20144 Pte Staff S.D. CWAC HQ GRU

The w/n G.W.A.C. complains that she was attacked by two
two soldiers on the street and received blows about the arms
and body.

PHYSICAL:-

General: This CWAC appeared nervous, pale, almost unable
at times to talk about her condition.

Extremities: Reflexes minor in nature on the interior surface
of the right arm.

Back: Full range of movement.

Chest: No evidence of broken ribs. Chest clear.

Abdomen: No masses or tenderness.

Impression: The w/n G.W.A.C. is suffering from no permanent
physical injury but is under what could be termed "emotional
shock" at the time and shortly following injury.

Notes: A full medical examination was carried out and a
report was completed on the same day that injuries were
received by patient. Apparently this has been mislaid
and the above is an account of w/n G.W.A.C.'s condition
as can be now remembered.

(J.A. McNeill) Capt
R.C.A.M.C.

I certify that in my opinion the attendance of Capt
J.A. McNeill is owing to the fact not readily procurable
and a written statement of his evidence signed by him
had been read to the accused and is attached hereto
as exhibit "D".

[Signature]
(G.H. Robinson) Lieut

Officer detailed to take summary

I do not require the attendance of Capt J.A. McNeill
for the purpose of cross-examination.

Signature of accused.

[Signature]
(J.O. Scott) Pte

ELEVENTH WITNESS:

B-94843 S/Sgt Brown, W.H. S.I.S. Cdn Provost Corps, having been duly sworn, states:-

"As a result of inquiry carried out by personnel of the S.I.S. HQ CRU arranged and conducted an identification parade held at 1017 hrs 17 Sep 45, at which time the accused and 16 ORs were on parade, all similarly dressed. Five witnesses examined the parade in the following order:-

Sgt Goodby
Sgt Ratcliffe
Pte Buchanan CWAC
Pte Mackenzie CWAC
Pte Staff CWAC

All of the witnesses with the exception of Pte Mackenzie positively identified the accused man in front of me now without hesitation. At 1420 hrs on the 14 Sep 45 pursuant to instruction received from the asst. APM HQ CRU, I commenced inquiries regarding the alleged assault on three Canadian CWAC personnel stationed at HQ CRU in company with Sgt Taylor, W.K. I immediately proceeded to the CWAC billet Grant Square Farnborough where I saw Pte Staff alleged to have been assaulted in the half hour previous on Queens Ave by two Canadian soldiers wearing 1st Div Formation Patches. Pte Staff appeared to be in near hysterics, her right cheek showed gathering contusion and she complained of her left eye having been scratched by one of the soldiers finger nail, she exhibited to me her right arm which bore contused finger marks on the upper flexor muscles. She also showed me marks on her legs, about the shins and ankles where she complained of having been kicked, she further stated that she had also received punches in the breasts and abdomen. Due to Pte Staffs excited condition she was not able to give any detailed description of her attackers. As a result of investigation carried out by members of the S.I.S. during the course of which Sgt Goodby handed to me an address book which I now present as exhibit "E". This book was found by Sgt Goodby at the scene of the alleged assault on Ptes Buchanan and Mackenzie. Subsequently it was identified by Pte Ewart the accused, as his property."

The accused declines to cross-examine the witness.

W.H. Brown
(W.H. Brown) S/Sgt
B-94843 Cdn Pro Corps

The Witness withdraws.

MM

TWELFTH WITNESS:

B-10036 Sgt Wylie, E.G., having been duly sworn, states:-

At the morning of 17 Sep 45 I collected a group of Pte soldiers made up as follows; 14 RCEME, 1 Seaforth, 3 RCASC who wore red patches, 1 RCCS, a brown patch in the educational hut by order of the adjutant. The accused who is in front of me now, was allowed to take his own position in the line up and he wore a red patch. Five witnesses passed the line up, five black berets were drawn by me from the QM stores and were given soldiers in the line up. I can't definitely state that the witnesses with the exception of one British Sergeant pointed out Ewart.

The accused declines to cross-examine the witness.

Ewart Wylie
(E.G. Wylie) Sgt B-10036

MM

THIRTEENTH WITNESS:

W-20144 Pte Staff, E.D. having been duly sworn, states:-

About 1400 hrs on the 14 Sep 45, I left the CWAC Orderly room to go to ADMS to have some papers signed, all of a sudden I was approached by two soldiers who called me a "fucking CWAC bastard". The shortest one grabbed me by the arm and of which I still have lots of bruises, and he hit me around the face as well, and the big fellow stuck his hand in my face and his finger went in my eye. The shock hurt me more than anything else, by the way they approached me, and when I struggled clean of them I ran down by the Post Office, and they passed me again. I stood by a Staff Sergeant and I asked him where the provosts were, and he said he didn't know as he was new there, and when they passed me they called me a "skinny bastard" and the last I saw them they were by Duke of Connaughts Road. The short fellow said he was coming back after the "fucking CWAC" and the other fellow was trying to take him away. I went back to the barracks and reported to Sgt Scott, CWAC. Her and another girl went looking for them, I had to go to the MO and I threw up everything I ate that day. I recognize the accused as the man who attacked me. On the 17th of Sep I had to attend an identification parade and I picked the accused out.

The accused declines to ask any question.

P. E. D. Staff
(E.D. Staff) Pte W-20144

Wm

The accused A-738 Pte Ewart, J.G. was cautioned as follows:-

Do you wish to make any statement, or give evidence on oath? You are not obliged to say anything, or give 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.

oOoOoOoOoOo

After the above caution the accused elected to give evidence on oath as follows.

The accused A-738 Pte Ewart, J.G. having been duly sworn, states:-

On the 14 Sep 45, after I and my chum left the other two CWAC's we went down the Duke of Connaughts Road, and we came to the 'C' Wing parade square, Then we went to bed and slept all afternoon till about 1730 hrs, I went to Brighton and Freeman went to London. The next morning when I heard the provosts were looking for me in Brighton, I turned myself into the Provost Stn in Brighton to find out what they were looking for me for, then the Provost took me back to 8 Cdn Repat Depot Guard Room.

J.G. Ewart
(J.G. Ewart) Pte A-738

oOoOoOoOoOo

The accused does not call any witness for the defence.

I certify that the foregoing Summary of Evidence consisting of 38 pages, was taken down by me in the presence of the accused, and that Rules of Procedure 4 (c), (d), (e), and (f) have been complied with.

G.H. Robinson
(G.H. Robinson) Lieut (R.Regt.C.)
8 Cdn Repat Depot

Farnborough

1 October 45.

17M

Statement as to Character and Particulars of Service of Accused

ARMY FORM

Number **A-738** Rank **Pte** Name **EWART J G** Regiment (or as the case may be) **8 Cdn Repat Depot**

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

NOTE—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not admitted in the proceedings.
 † See para. 67, K.R. 1961.
 * The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and in any recognized special acts of cowardice or distinguished conduct.
INSTRUCTION—If the charges in the document are for drunkenness or disorderly conduct, these must be stated separately and dated.

For		Times	Since Enlistment
For	AA Sec 15 (1) AWL	1 times	5
For	AA Sec 40	times	3
For	AA Sec 9 (2)	1 times	2
For		times	
For		times	

~~THE NUMBER OF OFFENCES IN THIS SUMMARY IS THE SAME AS THE NUMBER OF OFFENCES IN THE FIELD CONDUCT SHEET OF THE ACCUSED.~~
~~THE NUMBER OF OFFENCES IN THIS SUMMARY IS THE SAME AS THE NUMBER OF OFFENCES IN THE FIELD CONDUCT SHEET OF THE ACCUSED.~~

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

~~PREVIOUS ATTEMPT OF THE ACCUSED TO COMMIT SUICIDE. THE ACCUSED COMMITTED SUICIDE BY TAKING AN OVERDOSE OF TABLETS ON 11th FEBRUARY 1941 AT THE 10th CENTRAL INFANTRY CASUALTY HOSPITAL, FRANCE. THE ACCUSED WAS ADMITTED TO HOSPITAL ON 12th FEBRUARY 1941 AND REMAINED IN HOSPITAL UNTIL 15th FEBRUARY 1941. THE ACCUSED WAS DISCHARGED FROM HOSPITAL ON 16th FEBRUARY 1941 AND RETURNED TO HIS REGIMENT ON 17th FEBRUARY 1941.~~

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 26 days in military custody, making a total of 26 days of which NIL days were spent in hospital.

5. The present age of the accused according to his NIL attestation paper is 21 yrs, 1 month, 9 days

6. The date of his NIL attestation specified in his NIL attestation paper is 20 Jun 41

7. ~~THE ACCUSED HAS BEEN AWARDED THE FOLLOWING SUMMARY AWARDS:—~~
 8. ~~THE ACCUSED HAS BEEN AWARDED THE FOLLOWING SUMMARY AWARDS:—~~
 9. ~~THE ACCUSED HAS BEEN AWARDED THE FOLLOWING SUMMARY AWARDS:—~~

10. The accused is in possession of, or entitled to, 1939-40 Star, France-Germany Star, Defence Medal, CYSM & Clasp

11. ~~THE ACCUSED HAS BEEN AWARDED THE FOLLOWING SUMMARY AWARDS:—~~
 12. ~~THE ACCUSED HAS BEEN AWARDED THE FOLLOWING SUMMARY AWARDS:—~~

EX 13
VTR

No A-736

Name EWART J G

Sqn, Battery,
or Company

Corps R C O C

Date of
enlistment

20-6-41

GC
BadgesService or
Proficiency Pay3/17 MFM 6
(AFB 122)
40/P&S/126 (7808)Date of last entry in
Company Conduct SheetNo. and date
of last drunkPeriod not reckoning towards
freedom from extra fine

Sheet No.

Signature GC
Company, etc

Character

Place	Date of offence	Rank	Case of drunken- ness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispen- sing with trial	By whom awarded	Remarks
Field	15-7- 42	Tpr		Old sheet destroyed on completion of 6 months service 20 Dec 41 AA Sec 15 (1) AWL from 1315 hrs 15-7-42 to 2300 hrs 18-7-42 Total Absence 3 days, 9 hrs 45 mins	Cpl Anderson Cpl Pearce	14 days detn	23-7-42	Lt-Col P G Griffin	Forf 4 days pay F&AI 149 (1)(a) 14 da F&AI 149 1 b
Field	29-3- 43	Tpr		AA 40 conduct to the prejudice-- improperly dressed.	L/Sgt Campbell	3 days pay	27-3-43	Lt- Col RH Back	Forf 3 days pay F&AI 14 (2)
Field	14-4- 43	Tpr		AA 40- conduct to the prejudice-- left his tour of duty before being properly relieved causing disorganization within sqn	Cpl Davies E Cpl Hayes H	28 days F P	22-4-43	Lt-Col R H Back	Forf 2 days pay F&AI 149 (1)a

3701

Place	Date of offense	Rank	Character of Offense	OFFENSE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				(2) AA 15(1), ANL from 2000 hrs 14-4-43 to 0100 hrs 16-4-43 Total 1 day 5 hrs Gross arrest 6 days 10 hrs 15 mins					6 days pay FRA I 149 (1)(c) (ii) 28 days Pay FRA I 149 1 b Total 36 dy Py
Field	16 Sep 43	Pte		AA Sec 15(1) ANL from 2200 hrs 16 Sep 43 to 18 Sep 43 0740 hrs. Total 9 hrs 40 mins	CSM Ratcliffe	Admonished	17 Sep 43	Major S E Lewis	FORF 1 dy pay FRA I 149 1 a
Field	17 Dec 43	Pte		AA Sec 15 (1) ANL from 1800 hrs 19 Dec 43 to 1920 hrs 19 Dec 43 AA 9 (2) Disobeyed a lawful command by a superior officer in that he failed to report for gear duty when ordered to do so. Absent 1 hr 20 mins	S/Sgt Carlson	S 21 day F P	22 Dec 43	Lt-Col GG Peake	FORF 21 dys FRA I 149 (2)

No. **A-758** Name **EWART J G**Sqn, Battery,
or Company

Corps

Date of
enlistment

GC

Badges

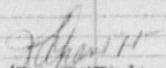
Service or
Proficiency Pay3/17 MFM 6
(AFB 122)
40/PAS/136 (7808)Date of last entry in
Company Conduct SheetNo. and date
of last drunkPeriod not reckoning towards
freedom from extra line

Sheet No.

Signature OC
Company, etc

Character

Place	Date of offense	Rank	Case of drunkenness	OFFENSE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	27 Mar 44	Pte		AA Sec 40 Dangerous driving and causing damage to WD veh in amount of \$6-14-0	Cpl Reidy D Pte Pittet G	Placed under stoppages of \$6-14-0	5 Apr 44	Capt C M Barrett	
Field	16 Sep 44	Pte		1 AA Sec 15 (1) AWL from 1500 hrs 5 Jan 45 to 2200 hrs 6 Jan 45 Absent 31 hrs	S/Sgt Westgate	28 days F P with forf of pay	9 Jan 45	Lt-Col A E MacBell-Irving	Forf 28 day pay F&I ing 149(2)
				2 AA Sec 10 (4) Breaking out of barracks at 1030 hrs 7 Jan 45 after having been placed under open arrest					3 days pay F&I 149 (1) (a)
				3 AA Sec 15 (1) AWL from 1030 hrs 7 Jan 45 to 1645 hrs 7 Jan 45 Time Absent 6 hrs 15 mins					Total Forf 31 days pay

Place	Date of offense	Rank	Case of drunkenness	OFFENSE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16 Sep 44	Pte		AA Sec 9 (2) disobeying a lawful command K-45118 given by his superior officer in that he at 0845 hrs 16 Sep 44 when ordered by the Regt'l NCO S/Sgt Westgate, F R to go on picket id not do so.	S/Sgt Westgate F	7 days F P with forf of pay	26 Sep 44	Lt-Col AE McBell-Irving	Forf 7 days pay F&I 149 (2)
Field	12 May 45	Pte		AA Sec 9 (2) Disobeying a lawful command K-45118 in that he when ordered to go on duty in the kitchen by Regt'l NCO did not to	S/Sgt Westgate F R	21 days F P	5 Jun 45	Lt-Col J W Brice	Forf 21 dys F&I 149 (2)
CERTIFIED TRUE COPY:						 (K. A. GRANT) Lieut Adj't "A" Wing S Cdn Repat Depot			

322B Ho. Cont. Q. D.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G-32390. PTE. EWART, J.W. No. 2, Cdn Inf Hldg Unit.	<u>First Charge.</u> A.A. Sec 15 (1) as per charge sheet.		<i>Imprisoned without hard labour for one year.</i>	
	<u>Second Charge.</u> A.A. Sec 15 (1) as per charge sheet.	<i>Guilty.</i>	<i>I confirm the finding & sentence of the Court but recommend me for 6 months to P.</i>	

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

Signed: *L. P. Day* Brigadier.

Commanding Cdn Base Units, Cdn Army.
Confirming Officer (d)

(Signed)

A. J. M. Stanger RCE
President.

- (a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialed by him.

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

I certify that the above Court assembled on the 12th June 1941 day of June 41, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

B.
Certificate of President as to proceedings.

I also certify that :—

1. The members of the Court
2. The witnesses

* Omit if not applicable.

- * (3) ~~The interpreter~~ *Stenographer F.*
- * (4) The officers under instruction

were duly sworn.

Signed this

12th

day of

June 7.

1941

A. J. M. Stanger RCE
President of the Court Martial.

* See footnote (b) on page 104 M.M.L. 1941.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

C.
Certificate in case of death sentences.

Signed this

day of

19

President of the Court Martial

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

D.
Confirmation

I direct that the soldier named in the margin be not committed to prison until further orders.

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

Signed this

14th

day of

June 1941

L. P. Day
Confirming Officer, Brigadier

Promulgated and extracts taken in the case of G 32390 PTE EWART, J.W., Cdt York Regt (2C1H4)

(a) (Dated) 20th day of June 1941

(Signed)

A. J. M. Stanger RCE
Lieut. Col.
Officer Commanding
No. 2 Cdn Inf. Holding Unit
C.A.S.F.

Promulgated and extracts taken in the case of

(Dated)

(Signed)

Promulgated and extracts taken in the case of

(Dated)

(Signed)

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

Promulgated 700145 d/20-6-71
182

CHARGE SHEET

The accused, G32390 Private James Walton Ewart, Carleton & York Regiment Reinforcement, No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas) is charged with:

First Charge
Sec 15-1
Army Act

When on active service, absenting himself without leave,
in that he

at Laurentide Camp, Witley, Surrey, on May 5th 1941,
at about 2200 hours, absented himself without leave
until surrendering himself at about 0115 hrs, May 6th
1941, at Laurentide Camp.

Second Charge
Sec 15-1
Army Act

When on active service, absenting himself without leave,
in that he

At Laurentide Camp, Witley, Surrey, on May 6th 1941
at about 0600 hrs, absented himself without leave until
surrendering himself at about 0530 hours May 26th 1941
at Laurentide Camp.

P. E. Belanger
(P.E. BELANGER) Major
Commanding
No. 2 Cdn. Inf. Holding Unit.

Laurentide Camp
Witley, Surrey
27 May 1941

To be tried by Field General Court Martial.

L. J. Page
(L.F. Page) Brigadier.
Commanding Cdn Base Units.

Bordon, Hants.
This ^{3rd} day June 41.

MEDICAL OFFICER'S CERTIFICATE

M.R. (CAN) PARA 557

*Exhibit A
P. 10/11/41
Major*

I certify that I have this morning examined

No. G-32390 Pte. Ewart, J. W.
of C. & Y. Reg. Coy. and in my opinion he
is fit to undergo Trial by Court Martial.
unfit

Laurentide Camp,
Station Witley, Surrey.
Date 12 June 1941.

W. Boulton Major
Medical Officer *W. Boulton*

G-32390 Pte. Ewart, J.W. (No.2 Cdn. Inf Hldg Unit, tried by
Field General Court Martial at Witley, 12 June 41

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

Prosecutor: Lieut. J.H. Chicoine
Defending Officer: Lieut. J.L. McKenna

At 1000 hours the Trial commences.

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

Q1 - Do you object to be tried by me as president or by any
of the other officers whose names you have heard read?
A1 - No, sir.

The President and members are duly sworn.

Officers under instruction are duly sworn.

Q2 - Do you object to M-41507 Spr. R.D. Archibald, R.C.E.,
acting as Court Stenographer?
A2 - No, sir.

The Court Stenographer is sworn.

The charge sheet is signed by the President and annexed to the
proceedings.

Q3 - Are you guilty or not guilty of the charge⁷ against you
which you have just heard read?
A3 - Guilty. *on both charges 7*

The summary of evidence was then read to the Court and the accused.

The prosecutor was asked if he had any evidence to produce as to
statement of character and particulars of accused.

The prosecutor, Lieut. J.H. Chicoine was then sworn and states:
"I wish to produce Army Form E296 pertaining to the accused now
before this Court - G-32390 Pt. Ewart, J.W., Carleton and York
regiment. This document shows that within the last 12 months
this man has been absent without leave 11 times and has committed
three other crimes. He was tried by P.G.C.M. at Bordon on the
18th Sept. 1940 - an offence under Sec.15(1) of the Army Act and
was awarded 120 days detention, 29 days being remitted.
I also wish to put before this Court, Form M.P.M.S. the conduct
sheet of the accused which is a true copy of the regimental
entries on the original."

Defence wishes to examine the documents. - no questions asked.

Q4 - Any witnesses for the defence?
A4 - No, sir.

The case for the defence is closed.

The Court then addressed the accused.

Q5 - Pte Ewart, what was the date of your enlistment?
A5 - 10 Sept. 1939

Q6 - At what date did you land in this country?
A6 - 21 June 40.

The defence asks to make a statement in mitigation of punishment.
"The accused was sentenced by Court-Martial last September and
when he finished serving his sentence he returned to this unit
and for about 3 months his conduct was that of the ordinary
soldier. He did his work and he played. He had a short A.W.S.L.

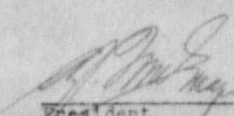
about the 1st January and after receiving a weekend pass in February in the middle of the month he was delayed in returning and was late from that but he did return on the day on which he was supposed to. About the 1st March, as you will notice on his M.F.M.C, he had a series of short A.W.Ls. I think there are five. At that time the accused received bad news which upset him. When this series ended he served his time but this started him off on the wrong foot. In this present case, the first charge is minor, absent just 20 days, returning by himself. This case might have been dealt with by the C.O. He has been in close arrest for 17 days and I would ask that this should be considered when the accused is sentenced."

The Court is closed for consideration of the finding and the sentence.

The Court find that the accused, No. G-32390 Pte. Ewart, J.W., No. 2 Cdn. Inf Hdg Unit ~~is guilty of the following charges, to-wit:~~ ~~is guilty of the following charges, to-wit:~~

Sentence

The Court sentence the accused G-32390 Pte. Ewart, J.W. (No. 2 Cdn. Inf Hdg Unit) to be imprisoned without hard labour for one year.


President,
F.O.C.M.

Major, R.C.E.

SUMMARY OF EVIDENCE

in the case of

G32390 Private James Walton Ewart, Carleton & York Regiment Reinforcement,
No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army
(Overseas)

Evidence taken on oath by order of the Commanding Officer.

First Witness G43001 Sgt. W.F. Butler, Carleton & York Regiment Company
Prosecution being duly sworn, states:

"On May 5th 1941 I was Orderly Sergeant of the Carleton & York Regiment. I checked Platoon roll call at tattoo roll call at about 2200 hours. I found Pte. Ewart missing. On May 6th at reveille at about 0600 hours, I again called the roll. Pte. Ewart was still missing."

W.F. Butler Sgt.

Accused declines to cross-examine this witness.

Second Witness G20025 Cpl. E.A. Thomas, Carleton & York Regiment Company,
Prosecution being duly sworn, states:

"On May 5th and 6th 1941 I was Corporal in charge of No. 5 Hut "E" Block. On May 5th Pte. Ewart was absent at tattoo roll call. At about 0115 hours May 6th 1941, I was awakened and Private Ewart reported to me."

E.A. Thomas Cpl.

Accused declines to cross-examine this witness.

Third Witness A17116 L/Cpl. Haney, D.E., Carleton & York Regiment Company
Prosecution being duly sworn, states:

"On May 26th 1941, I was Company Orderly Corporal. At about 0530 hours, while making my rounds Cpl Thomas reported to me that there were two men who had just got back. I went to them and asked their names. They told me they were Privates Ewart and Hodgson. I placed them under arrest."

D.E. Haney L/Cpl.

Accused declines to cross-examine this witness.

Compliance with R.P. 4 (c) (d) (e) certified.

L. Cannon Lieut.

(L. Cannon)

Officer detailed by C.C. 2 C.I.E.W. to take
Summary of Evidence.

Laurentide Camp
Witley, Surrey
27 May 1941

LIST OF EXHIBITS

in the case of

G32390 Private James Walter ^{son of} Ewart, Carleton & York Regiment Reinforcement
No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army
(Overseas)

NIL

Laurentide Camp
Witley, Surrey
27 May 1941

STATEMENT BY ACCUSED

I, 032390 Private James Walter ^{senior} Ewart, Carleton & York Regiment
Reinforcement, No. 2 Canadian Infantry Holding Unit, a soldier
of the Canadian Army (Overseas)

DESIRE

to have an officer represent me at my trial by Court Martial.

I request the services of Lieut. J. L. McKenna

if they are available.

J. W. Ewart Pte

Laurentide Camp
Witley, Surrey
27 May 1941

Place	Date of offense	Rank	Class of offense	OFFENSE	Name of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Witley Eng	10-4-41	Pte		AWL from 1000 hr 8-4-41 until 1635 hrs 9-4-41 AA 15-1	Cpl Carpenter	7 days C.R.	10-4-41	C.E. Anderson	Capt 2 days pay
Witley, Eng.	1-3-41	Pte		Absent from Guard Mounting necessitating replacement	Sgt Little				
				AWL from 1630 1-3-41 to 0700 2-3-41		28 days Detention	12-3-41		
				AWL from 2200 2-3-41 to 0630 3-3-41					Forfeits 5 days pay. Stoppage of 6/10 th escorts expenses
				AWL from 0830 3-3-41 to 2230 3-3-41					
				AWL from 0630 5-3-41 to 0100 7-3-41					
Witley, Eng.	8-4-41	Pte		Breaking out of barracks while under open arrest					
				AA 15-1 AWL from 1000 hr 8-4-41 to 1635 hr 9-5-41	Cpl Carpenter	7 days C.R.	12-4-41	Capt Anderson	Forfeits 2 days pay
Witley	11-4-41			(1) AA 10(4) Breaking out of barracks while a defaulter	Cpl Christie	21 days detention	18-4-41	Lt. Col. F.S. Mathewson	Forfeits 27 days pay
				(2) AA 15-1 AWL from 1830 hr 11-4-41 to 1800 hr 17-4-41	Cpl Thomas				

Certified true copy

Lawrence Cannon

No. G32390 Name EWART J.W.

Sqn. Battery or Company "D" Corps I.T.C.

Date of enlistment 19-9-39 G.C. Badges

Service or Proficiency Pay

M.F.M. 6 (A.F. 11 512) 1909-4-11/1911 1912-4-11

Sheet No. 2

Signature O.C. G.G.K. HOLDER LT COL Company, etc.

Character FAIR

Exhibit C.M.C. 1912

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Period not reckoning towards freedom from extra fine

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
BORDON ENG	1-7-40	Pte		A.W.L. from 0800 hr 1-7-40 to 0800 hr 4-7-40	Sgt. Proude	G.A. Awarded 7 days C.B. Forfeits 3 days pay	4 July 40	Major W.J. MacC	Forfeits 35 days pay F.R.&I.
"	16-7-40			A.W.L. from 0800 16-7-40 to 1530 A.A. 15-1	19-8-40	120 days Detention (Aldershot)	18-9-40	D.C.M.	149-1-a Forfeits 29 days pay. F.R.&I 149-1-b
Witley Eng	30-12-40	Pte		AWL from 2359/30-12-40 to 1200/4-1-41	Sgt. Clifford	7 days C.B.	7 Jan 41	Major F. Belanger	Forfeits 5 dy pay
Witley, Eng	17-2-41			A.A. 15-1 AWL from 0630/17-2-41 to 1500 17-2-41 (Overstayed pass) A.A. 15-1	Sgt. Arseneau L/C Carpenter	7 days C.B.	19-2-41	Lieut D.W. Hay	Forfeits 1 days pay

Description of court by which trial, or status of officer at time of trial, or dispensation with trial.	Date and place of trial, or summary award, or of dispensation with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	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 27th day of May 1911
[Signature]
 Adjutant,
 No. 201, 10th Regiment, G.A.R. (C.A.R.F.)

Exhibit B.
 Army Form B296
[Signature]

Statement as to Character and Particulars of Service of Accused.

432340 Pte James Wallace Stewart of the Berkshire York Regt Re. Inf #20344

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery 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 Army Act, and of cases in which trial has been dispensed with:—

†The number of entries should correspond with the number of entries in the Conduct sheets, punishment being given to the most serious offence in each entry, and in any exceptional cases of gallantry or distinguished conduct.

‡Convictions—only the charge is for drawing into the ranks for drunkenness shall be stated separately and dated.

	*Within last 12 months.	*Since Enlistment.
For <i>D. W. L.</i>	11 times	11 times
For <i>Other crimes</i>	3 times	3 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—

2. The accused has not been previously convicted.

or,

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

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 _____ days in Civil Custody,

and 18 days in Military Custody. *(Close arrest)*

Total 18 days.

Of which _____ days were spent in hospital.

5. The present age of the accused according to his record-of-service
attestation paper is 33

6. The date of his commission specified in his record-of-service
attestation paper is 7-10-37

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

8. The accused is entitled to deferred pay or gratuity in respect of _____
years' service.

9. The accused is entitled to reckon _____ years' service for the purpose
of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or
military reward [or is in possession of or entitled to _____]

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

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

13. 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, _____

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

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

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.

Army Number, Rank and Name: 332390 Pte James Walter Stewart of the London & York Regt R.C. Infantry #25 I.B.A.

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

Description of Court by which trial or summary award or dispensation with trial was dispensed with	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
<u>Section 47(a)</u>	<u>London, Gaule</u> <u>18-7-40</u>	<u>Section 15 (1) Army Act</u>	<u>120 days detention</u>	<u>24 days remitted</u>

original

QQ-10

PTE EWING G.

Correspondence to be PINNED here.

6-22109 Pte Swing, G.
Cdn Det Bks.

QA-10

Army Form A.3.

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

PROCEEDINGS.

On Active Service, this FIFTEENTH day **A.**
of SEPTEMBER, 19 FORTY-THREE Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

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

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

* [I am unable to appoint:-

* [~~Three~~ Three Officers to form the Court.]

* [~~Two~~ A Field Officer as President.]

for the following reasons, namely:-]

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

*Omit if not applicable

Note - The President must be named. The members and mailing members of any may be mentioned by name, or the number and rank and the unit to which they belong may also be named in the latter event, the rank, name, etc. of the members of the Court, as constituted, will be recorded on the proceedings.

Must be signed personally by the Officer already in command at the time, and all signatures in the appropriate spaces of the Court to be included on the form.

ELLIOTT and J. P. ...
 8 Oct 43

President.		
Rank.	Name.	Regiment.
MAJOR	A.S. PUTTAPICKE	84 CMO.
Members.		
Rank.	Name.	Regiment.
A MAJOR	FROM	4 CERU
A LIEUT	FROM	4 CERU

*Signed *[Signature]*
 Commanding Officer
 (C. Stewart) Brig.,
 Cdn Inf Units,
 Convening Officer.
[Signature]

19 Oct 43
 J.P.O.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
L22109 Pte Swing G. Cdn Detention Barracks.	FIRST CHARGE Sec 15(1) A.A.	Guilt	Guilt	Confined for 14 days and to be put under stoppage of pay until he has made good the sum of \$1-12-1 in respect of the cost of his apprehension. 16/9/43. OHP
	See Charge Sheet Attached.			

*Question to be asked of accused, if he pleads not guilty (R. of P. 29 (A)):-

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

Answers (to be recorded on separate sheet if necessary):-

(Signed) J. Stewart (Signed) A. J. Pettigrew, Major
J. Stewart, Captain, Cdn Det Units. President

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

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

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

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

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

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

3

I certify that the above Court assembled on the 16th day of September 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. B. Certificate of President as to proceedings.

I also certify that:-

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

were duly sworn.

Signed this 16th day of September 1943.

A. J. Pettigrew, Major
President of the Court Martial. OHP

*Omit if not applicable.

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

I certify that the terms of *A.C.I. 570 of 1918 have been complied with. C. Certificate in case of death sentence.

Signed this - day of - 19 -

President of the Court Martial. OHP

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

*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders. fe

Signed this 17th day of September 1943.

J. Stewart, Captain
Confirming Officer
A/Comd Cdn Det Units

Promulgated and extracts taken in the case of L22109 Pte Swing G.

(a) (Dated) 20 SEP 1943 (Signed) J. Stewart, Captain (C. S. BILBERRY) AT COMMANDANT

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

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

CHARGE SHEET

The accused, Reg. No. L22109 Pte Ewing, G., Cdn Detention Barracks, Cdn Provost Corps, a soldier of the Cdn Army Overseas, is charged with:


FIRST CHARGE
SEC. 15(1) A.A.

ABSENCE WITHOUT LEAVE

in that he

At Headley Down, Hants, did absent himself from the Cdn Detention Barracks from 0001 hrs 1 Aug. 43 until apprehended by the Cdn Provost Corps at Manchester at 0230 hrs on the 4 Sep 43. Total absence 34 days 2 hrs and 29 min. thereby incurring costs of apprehension in the amount of £1.12.1.

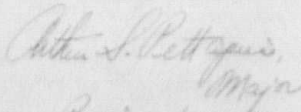
13 Sep 43.


Lieut.
(C.J. Alledore) A/Commandant,
Canadian Detention Barracks.

To be tried by Field General Court-Martial.

In the Field
15 Sep 43


(G.C. Stewart) Brigadier,
A/Comd, Cdn 8th Wkite.


Major
President

PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL
 HELD AT *Wilmington, Wilmington, Del.* 1943
 ON THE *16th* DAY OF *September*

The accused *L28107 Lt. Curing, S.* Unit *Co. 1st Lt. Hq.*.....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by R.F. 22 and 23.

The accused is brought before the Court.
 The Medical Certificate is laid before the Court.
 The order convening the Court is read by the President, and the accused having been asked stated that he had no objection to the President or any member of the Court.
 The Court is duly sworn.

The following constitute the Court:-

President *Maj. G. S. [unclear]* Unit *H. S. Co. B. 4*....
 Members *Maj. G. F. [unclear]* Unit *H. S. Co. B. 4*....
S. L. [unclear] Unit *H. S. Co. B. 4*....

The officers under instruction are duly sworn:-

Lt. W. C. Doughton } *Lt. J. G. L. [unclear]* Unit *H. S. Co. B. 4*....
R. J. [unclear] } *Lt. [unclear]* Unit *H. S. Co. B. 4*....
M. K. [unclear] } *Prosecutor Lt. [unclear]* Unit *Co. 1st Lt. Hq.*....
S. E. [unclear] } *Defending Officer Lt. S. J. [unclear]* Unit *H. S. Co. B. 4*....
J. D. [unclear] }

The charge sheet is signed by the President and the accused is arraigned.

The accused pleads guilty to the charges and R.F. 35(2) *all*
 is complied with. *all*

The accused does not desire to make a statement in reference to the charges. R.F. 37(B). *all*

The Summary of Evidence is read.

The Prosecutor produces MP 351, AF 296 and MP 6.
 The Court complies with R.F. 36(B). *all*

Pursuant to R.F. 37 THE ACCUSED:-

- (a) Makes a statement in mitigation of punishment. *all*
- ~~(b) Tells the Court his character.~~ *all*
- ~~(c) Tells the Court in mitigation of punishment.~~ *all*
- ~~(d) Addresses the Court by his Defending Officer.~~ *all*

Overseas R.O. 3262 complied with.
 The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS
OF ACCUSED OR HIS DEFENDING OFFICER.

attached hereto.

John S. [unclear]
Major

16-9-43



Plea of Mitigation

Gentlemen, I present

to you certain facts, which I hope will speak for themselves. Firstly, I have spent approximately three and a half years in the Cdn. Forces Corps I have never been officially disciplined during that time and generally speaking I feel I have discharged my responsibilities as a soldier and as a senior N/C/O for two and a half yrs. I now ask the leniency of the Court in dealing with the Charge I am faced with.

Respectfully,
Submitted

C. 22109 St. George Curry

Deputy Officer of the Militia List

SUMMARY OF EVIDENCE IN THE CASE OF MURDER, NO. 122109 THE SWINE, GEORGE, CANADIAN INFANTRY CORPS ON STRENGTH OF C.M. DETACHMENT BARRACKS,

BY direction of the Commandant, the Summary of Evidence is taken on oath.

I produce the following documents:

A. Certified true copy of Court of Inquiry

B. Certificate of arrest

C. Statement of courts of apprehension

~~B. Statement of a statement of apprehension, statement~~

~~and statement of apprehension.~~

The accused having been duly cautioned as follows: "Do you wish to say anything or give evidence on oath. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or give evidence you give will be taken down in writing and may be given in evidence" accused stated: "There is nothing I can say"

Lieut. (E. E. Patnam)
Officer taking Summary.

Headley Down, Hants,
9 Dec. 43

Lieut. (E. E. Patnam)
Officer taking Summary.
Detached Detachment Barracks.

W. J. H. H. H. H.

Record of the Declaration of a Court of Inquiry assembled at Cdn. Det. Bks. on the 25 day of AUG. 1943, 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. L22109 Pte. Ewing, G., C. Pro. C., on Strength Cdn. Det. Bks. Cdn. Army (C)

DECLARATION

The Court declare that No. L22109 Pte Ewing, G., C.Pro. C., on strength Cdn. Det. Bks., Cdn. Army Overseas illegally absented himself without leave from Canadian Det. Bks. at 0001 hrs on the 1st day of August 1943 and that on the 25 August 1943 he has not returned to this unit or been reported as apprehended and is still so absent, and that he was deficient and that he is still deficient of the following articles:

		Value
Anklets, Web, Pns	1	\$.58
B.D. Blouse	1	4.64
B.D. Trousers, Pns.	1	4.86
Caps. F.S.	1	.62
Boots, Ankle, Pns.	1	3.81
Shoes, Canvas,	1	.56
Haversack, W.S.	1	1.61
Straps, Shoulder, W.E.	2	.68
Badges, Cap, C.P.C.	1	.08
Badges, Shoulder, C.P.C.pns	1	.08
Braces, Pns	1	.22
Brasses Cleaning	1	.03
Brushes Shaving	1	.23
Brushes, Hair	1	.18
Combs, Hair	1	.03
Dressing, F.F.	1	.18
Holdalls	1	.13
Razors, S. Sets	1	.32
Shorts, Gymn, Pns.	1	.32
Towels, Han	2	.32
Bags, Ration	1	.03
Forks, Table	1	.97
Knives, Table	1	.14
Spoons, N.S. Dessert	1	.06
Total:		\$19.37

SIGNED AT Cdn. Det. Bks.
this 26 day of Aug. 1943

LIEUT. C.J. ALLENDORF PRESIDENT
H.W. COWLING; LIEUT. MEMBER
LIEUT E F PUTNAM MEMBER

Signature of Commanding Officer C.J. Allendorf, Lieut.,
A/Commandant,
Canadian Detention Barracks.

I certify that the above is a true extract of the court of Inquiry held for the s/m and as recorded in MilBk 68 being record of declaration of Court of inquiry

[Signature]
(C.J. Allendorf) A/Commandant,
Canadian Detention Barracks.

all

B

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42.

I CERTIFY that No. L/22109, Rank Pte., Name Swing S.,
Unit No. 1, Can. Det. Bks. Cdn. Provost Corps arrested at Manchester . . . (Place)

at . 0230 . . (hour) on 4 Sept. 42 . . (date) and that at the time of his arrest he was wearing ~~(MILITARY UNIFORM)~~ or (Civilian Clothes).
Signature of Provost-Marshall, Assistant Provost-Marshall or other officer of the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
7 Sept. 43.

H. P. Clayton
H. P. Clayton, Capt.
(W. Fern) D. A. F. M.,
London Area

all

Office Issuing Railway Warrant and Expense name
No. 6 Area Provost Company, Canadian Provost Corps, London.

Cap: *R. Thompson*

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

Date	Particulars	Amount
	Expenses return fare from LONDON To <i>Moskowitz</i>	141
	Expenses single fare to LONDON From <i>Moskowitz</i>	141
	Prisoners fare from To	
	Expenses & Prisoners expenses for food, meals, bus fares (<i>1/2 pntn</i>)	311
Total \$		1121

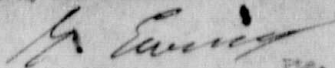
The following expenses were incurred in apprehending and returning the M/N Soldier to his unit from *London from Moskowitz*

Reg. No. *1210* Rank *Pvt* Name *Erving, H* Unit *no 11th Bn*

CANADIAN DETENTION BARRACKE.

10 Sep. 43

I, the undersigned, do not wish any legal counsel
provided in my behalf for my court Martial



(Ewing, G.) L22109

Pte.

Consider retention records,
(C. A. Altieri) / Commandant,
Lieut.

- V - Certified true copy of Court of Inquiry
- B - Certificate of arrest
- C - Statement of costs of apprehension
- D - Statement of deficiencies of equipment, clothing and Regimental necessities

LIST OF EXHIBITS

MIL

LIST OF WITNESSES FOR DEFENSE

DOCUMENTARY

LIST OF WITNESSES FOR PROSECUTION

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number 122109 Rank Pte Name Regiment (or unit)
122109 Pte Bwling, G. Cdn. Det. Bks.

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

For	times	Within last 12 months
For	times	n11
For	times	Since enlistment
For	times	n11
For	times	
For	times	
For	times	

There are no entries in the conduct sheets of the accused.
or,
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 are mentioned by the court-martial as a preliminary award under Section 47 of the Air Force Act and dispositions with regard to the same are set out in the summary of the accused's service.

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 _____ days in military custody, and _____ days in military custody, making a total of _____ days in custody, of which _____ days were spent in hospital.

5. The present age of the accused according to his record of service is 30 yrs 8 mos. *
6. The date of his commission specified in his record of service is 23 May 1940
7. The service which the accused is allowed to reckon towards discharge is _____ service for the purpose of determining his pension, etc.

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

10. (If the accused has received a decoration, or award, or service medal, or other such honor, state the name of the decoration, or award, or service medal, or other such honor, and the date on which it was received.)
The accused has received _____

00-110

PTE EXELBY R.M.

Correspondence to be PINNED here.

A-56335 Pte Exelby, Robert
Morley, No 1 Sub-Depot, 1 CBOD.

00110

Army Form A.3.

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

PROCEEDINGS.

A.

On Active Service, this THIRTY-FIRST day Order convening the Court.
of AUGUST, 19 FORTY-THREE

Whereas it appears to me, the undersigned, an officer in
Command of CANADIAN REINFORCEMENT UNITS, CANADIAN
ARMY OVERSEAS, on active service, that the
persons named in the annexed Schedule, being subject to Military
Law, have committed the offences in the said Schedule mentioned.

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

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

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

* ~~(If amenable to appointment)~~

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

* ~~(A Field Officer as President.)~~

for the following reasons, namely:—

*Wille Don't call Capt
7 Oct 43*

Note: The
President must be
named. The
members and
waiting numbers
(if any) may be
named by rank,
or the
number and
rank and the
unit to which
they belong may
also be named.
In the latter
case, the rank,
number, etc., of the
members of the
Court, as consti-
tuted, will be
recorded on the
proceedings.

President.		
Rank.	Name.	Regiment.
MAJOR	A.S. PETTAPIECE	HQ CRU.
Members.		
Rank.	Name.	Regiment.
A CAPTAIN	FROM	1 CRU
A LIEUT.	FROM	1 CRU

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

*Signed *J. H. Roberts*
J. H. Roberts, Maj-Gen.,
Commanding
Cdn Rft Units,
Convening Officer.

Arthur L. Pettapiece

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A-56335 Pte EXELBY, Robert Morley, No 1 Sub-Depot, I.C.B.O.D.	FIRST CHARGE Sec 40 A.A.	Not Guilty	Guilty	Confined jul.
			Sentenced to undergo detention for a period of one hundred and thirty-five (135) days. Capt. H.S. [Signature]	
	See Charge Sheet Attached			

*Question to be asked of accused, if he pleads not guilty (R. of P. 29 (A)) —
 "Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
 Answer to be recorded on separate sheet if necessary.

(Signed) [Signature] J. H. Roberts, Maj-Gen., Commanding Cdn Rft Units. Confirming Officer (a)
 (Signed) [Signature] J. P. Dorion, Lieut., President

- (a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
- (b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
- (c) Recommendation to mercy, if any, to be inserted in this column.
- (d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
- (e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialed by him.

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

I certify that the above Court assembled on the 3rd day of September 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. B. Certificate of President as to proceedings

I also certify that:—

1. The members of the Court
2. The witnesses
- *3. The Interpreter
- *4. The officers under instruction

were duly sworn.

Signed this 3rd day of September 1943.

[Signature]
President of the Court Martial.

*See footnote (b) on page 742 M.N.L. 1939.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this ___ day of ___ 19__.

[Signature]
President of the Court Martial.

*To be omitted unless post sentence certificate of detention having been awarded. The Confirming Officer either has an authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

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

*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.

Signed this 4 day of Sep. 1943.

[Signature]
Confirming Officer.

J. H. ROBERTS, Maj-Gen.

Promulgated and extracts taken in the case of A-56335 Pte. Exelby, R.M.

(a) (Dated) DO 164 d/8-9-43 (Signed) [Signature]

Promulgated and extracts taken in the case of Adjt. No. 1 Sub-Depot, (WT Stores), I CBOD.

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of _____

(Dated) _____ (Signed) _____

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

CHARGE SHEET

The accused, No. A-56335, Pte. Exelby, R.M., No. 1 Sub-Depot (M.T. Stores Coy.), 1 Canadian Base Ordnance Depot, a soldier of the Canadian Army Overseas, is charged with:--

First Charge
Sec. 40
Army Act

While on Active Service conduct to the prejudice of good order and military discipline

in that he

at Bordon, Hants, on the 20th Aug 43, was improperly in possession of Public Property, namely:--

Sets Tool Ignition in metal box	\$ 7.14
Gauge Peeler	1.00
3 Screw Drivers @ .45¢ each	1.35
Screw Driver, Small, Steel	.20
Rules, Steel, 6"	.65
Rules, Steel, Flexible, 6"	.85
Pliers, Diagonal, Cutters	2.70
12 Files @ 30¢ each	3.60
Cleaner, File	.15
Vices, Hand	1.90
Wrench, Adjustable, 5"	.25
Screw Driver, London Pattern, 2" blade	.10
Stone, Oil, 8½"	1.00
Tools, Screw Cutting BA, Sets #2 Mk.1	10.75
Carborundum Paste	.35
Covers, Petrol Tank-	.50
Handles, File	.15
Chest, Steel, Empty 11 x 5 x 4	1.00
Padlock and Key	.75
Goggles, D.R., 2 pairs @ \$1.88 each	3.76
Cases, Map Carrying, 2 @ \$1.75 each	3.50
Satchels, Signal	1.00
Total Value	\$42.85 (\$29.11.6)

property of the Canadian Government.

H. Steele
(P. Steele), Lt.-Col.,
O.C., No. 1 Sub-Depot,
1 Cdn. Base Ordnance Depot,
Royal Canadian Ordnance Corps.

To be tried by Field General Court-Martial.

J. R. Roberts
J. R. Roberts, Maj-Gen.,
Comd, Cdn Hq Units.

In the Field,
31 Aug 43

Arthur W. Higgins
Lieutenant

Medical Officers' Certificate
K.R. (Can) para. 557.

I certify that I have this morning examined No. 1756331

Pt. EXELBY. R.M. and in my opinion he is ~~unfit~~ ^{fit} to
(rank) (name)

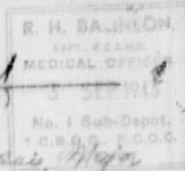
undergo trial by Court Martial.

Station Borden Hants

Date SEP 3 1943

(Sgd.)

R.H. Balinon
(Medical Officer)



/DRN.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT *1st Airborne Division, England, London, Kent.*
ON THE *3rd* DAY OF *September* 1943

The accused *A.56.334.4. Gally R.M.* Unit... *1.C.B.A.P.*.....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President *Mr. G. H. Smith*.....Unit... *1.C.B.A.P.*.....
Members *Capt. F. J. ...*.....Unit... *1.C.B.A.P.*.....
St. A.Unit... *1.C.B.A.P.*.....

The officers under instruction are duly sworn:-

St. J. P.Unit... *1.C.B.A.P.*.....
.....Unit.....
Prosecutor *St. J. P. ...*.....Unit... *1.C.B.A.P.*.....
Defending Officer *St. W. A. ...*.....Unit... *1.C.B.A.P.*.....

The charge sheet is signed by the President and the accused is arraigned.
~~The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.~~ *CHP*
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

- (a) Makes a statement in mitigation of punishment.
- (b) Calls witnesses as to character.
- (c) Calls witnesses in mitigation of punishment.
- (d) Addresses the Court by his Defending Officer.

Verdicts R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER. *CHP*

The accused pleads "Not Guilty" to the charge
R.P. 09(A) is complied with.
The Prosecutor proceeds to call witnesses.

Lat Witness for Prosecution
Capt. B.A. Dickinson, of No 1 Sub-Depot, (CBAD)
being on duty since, at etc.,
I am B.C. of tools & technical stores.
I examined the accused. On 20 Aug 3 after
receiving certain information, I went with the accused
to his quarters for a sub-inspection. At the inspection
I found the following list of things (Exhibit A)
I called all the articles as shown on the list. I then advised
him to be present under oath. The job of the
accused does not warrant his having all these
things in his possession. He might be in charge of
one two of these things. The tools are partly
the property of the Cdn. Govt. The others are identical
with those in the tool stores although they can be
found in a shop. But all the tools are
similar to those which we have in the tool stores.
No mind of the accused being down there stores
is spent, nor does he. But the Pay books show
that they were ever issued to him.

Cross-examination
The parts of the tools are aimed at from a point

last which was in the office and it is sent from Canada. These are all vocabulary pieces, not pieces as they would be for most activities in the market. I do not know whether these are returned stores or not.

By the Court The accused is a trumpet driver. In the ordinary course of his duties he might be asked to play for a party in his vehicle. It is forbidden and it is not a custom for men to have tools such as this in their living quarters. Some drivers have extra tools of course.

Red Witness C 34510 W. S. Cook, P.C. of 1st Regt, 100th
for Examination having been duly sworn, states:-

When the accused was in my unit I saw tools taken out of the boot of the accused on the day his unit was impounded. I saw some of them but not them all. On or Aug 43 and soon the accused made a general offer to sell the case (indicates ~~labeled~~ signed Case Map Copying). The boot inspection was about 1530 on the morning. He made a general offer of sale of the contents to me too. I saw some of the accused seeing these tools.

Cross-examination

I am sure this is the Map Copying case but it is certainly similar. I refused to buy it from

him for a pound of chocolate. These chocolate later
was found in the hat of the accused. Also more were
then seized.

2nd Witness #64145 Pte Latham J. M. of ~~the~~ 1st Regt
for Procurement 10600 being from duty room, at alt -
When the accused. On 23 Aug he offered me
a bag for sale like this (indicate Case, Miss
Carrying). He offered me the in the hat when
we both sleep. I saw the accused using tobacco
each morning. He said I could buy it for 10
shillings. This is nothing in the way to show that
it is that Property. He said that it was going
to be taken to P. D. H. to be destroyed.

Cross-examination

It was just a few days him making the
rings from. He handed me the bag to me. It is
Cook also brought me. I saw a pound of chocolate
in the hat of the accused on that day. I took the
bag I bought and put it in my hat bag.
The bag they find amongst his hat was not
the one he sold to me. He also had another
one, a about as with his stuff.

The Procurement is closed.
R.P. 60 is completed with.

The Defense proceeds to call witnesses.

last witness
for Defense

The accused having been duly sworn, states
his own direct examination. He says some of
the tools listed in Exhibit A in my memorandum.
I used to use these tools to make windows, and
as much as a lobby. The Mag was sent from
a carload of returned articles. I thought that they
would go to customs, so I just took them.

Cross-examination

I thought that these things were going to
salvage because I want to get them to salvage
a week previously.

The Defense is closed
The Prosecutor makes a final address in which he says
that he will let the witness speak for itself.
The defending Officer makes a closing address in which he says
that the accused was using all these tools either for maintenance
or for the purpose of following his lobby of
metal work and that there was no intention on the part of
the accused to treat them as his own property.

The Court is closed for consideration of findings.

The Court is re-opened and the Prosecutor produces the 1945355
and 194546 of the accused.

The defending Officer addresses the Court (stated facts)
The Court is closed for consideration of sentence after consulting
with the Prisoner R.C. 3269.

Arthur S. Littlejohn,
Magistrate

EXHIBIT 'A'

List of Articles Found in Possession of
A-56335 Pte. Exelby, R.M.

Sets Tool Ignition in metal box	\$ 7.14
Gauge Feeler	1.00
3 Screw Drivers @ .45¢ each	1.35
Screw Driver, Small, Steel	.20
Rules, Steel, 6"	.85
Rules, Steel, Flexible, 6"	.85
Pliers Diagonal Cutters	2.70
12 Files @ .30¢ each	3.60
Cleaner, File	.15
Vices, Hand	1.90
Wrench Adjustable 5"	.25
Screw Driver, London Pattern, 2" blade	.10
Stone, Oil 8½"	1.00
Tools, Screw Cutting BA, Sets #2 Mk. I	10.75
Carborundum Paste	.35
Covers, Petrol Tank	.50
Handles, File	.15
Chest Steel Empty 11 x 5 x 4	1.00
Padlock & Key	.75
Goggles D.R. 2 prs. @ \$1.88 each	3.76
Cases, Map Carrying 2 @ \$1.75 each	3.50
Satchel Signal	1.00
	<u>\$42.85--£9.11.6</u>

*Received from the Court
the above mentioned exhibit.*

*J. Bowden Lt
15.12.1943*

*3/4
43*

all

Plea of mitigation, and statement
of character

A 56335 Pte Efelby R.N. has
worked for me as driver
mechanic and I have always
found him a willing and
obedient soldier.

Since Pte Efelby joined our
unit has given me
no cause for trouble and
has been a first class
soldier.

I have always found Pte.
Efelby reliable, willing and
trustworthy. His conduct and
habits in our unit have always
been of a high standard.

W. A Buckley (Lieut)
No. 1 Sub Depot
No. 1 C.B.O.D.

3 Sept 1943.

W.A.B.

Adm 5-4-4/Exelby

No. 1 Sub-Depot (M.T. Stores Coy)
1 Canadian Base Ordnance Depot
Royal Canadian Ordnance Corps

30 Aug 43.

H.Q.
C.R.U.

Attn: D.J.A. Office

Application for F.G.C.M.
A.56335 Fte Exelby, R.M.

1. Reference your letter 429/Applns/1 d/25 Aug 43.
2. Returned herewith the m/n application; the summary of evidence having been re-taken. A copy of the summary of evidence taken on 23rd Aug 43 is also enclosed.

J.D. Steele Lt
(F. Steels) Lt.-col.
O.C. No. 1 Sub-Depot
1 Cdn Base Ordnance Depot

JPD/RH
DRLS/PCST
Encl.

2nd Witness
for the
Prosecution

C-34510, Pte. Cooke, R.E., on strength of No. 1 Sub-Depot, (M.T. Stores Company), 1 Cdn. Base Ordnance Depot, Royal Canadian Ordnance Corps, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:-

On Friday 20th August 43, Pte. Exelby came in with the kits and he (Pte. Exelby) was asking if we would buy them. He didn't say where he got them or anything. We all in the hut looked at them to see if there was any marking or anything on them to show that they were "army". We didn't see any signs at all. He also said that many of them were being given away and as if they were no good to anybody and were being destroyed. So, after hearing him say that, we didn't think there was any harm at all, and I gave him a box of chocolates, (a 1-lb. box), and was going to give him three shillings on Pay Day, for the kit.

R.D. Cooke

The accused declines to cross-examine this witness.

3rd Witness
for the
Prosecution

A-64145, Pte. Sullivan, J.M. on strength of No.1 Sub-Depot, (M.T. Stores Company), 1 Canadian Base Ordnance Depot, R.C.O.C., a soldier of the Canadian Army Overseas, having been duly sworn states as follows:-

On Friday 20 Aug. 43 Pte. Exelby had these boxes and offered me one for sale, and said that they were going to be taken to R.S.D. and destroyed. I said I would take one and pay him ten shillings on Pay Day. I examined the box. I didn't know it was government property. I thought it over after dinner and thought it was rather foolish and was going to return it.

Pte. J.M. Sullivan

The accused declines to cross-examine this witness.

The accused, No. A-56335, Pte. Exelby, R.M., on strength of No. 1 Sub-Depot, (M.T. Stores Coy.), 1 Canadian Base Ordnance Depot, R.C.O.C., a soldier of the Canadian Army Overseas, having been duly cautioned in accordance with Rules of Procedure 4(E) declined to make any statement.

I certify that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

I further certify that the foregoing Summary of Evidence consisting of two pages was taken down in my presence and in the presence and hearing of the accused this twenty-third day of August 1943 at Bordon, Hants.

D.L. Nichols Capt.
(D.L. Nichols) Capt.

Note: Sheet No. 3 contains Schedule referred to in evl. of First Witness, (Exh. A.17 ff)

Summary of Evidence in the case of No. A-56335 Pte. Exelby, R.M., on strength of No.1 Sub-Depot, 1 Canadian Base Ordnance Depot, a soldier of the Canadian Army Overseas.

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

1st Witness
For the
Prosecution

Captain Bernard Augustus Diekman, Unit Security Officer, No. 1 Sub-Depot, 1 Cdn. Base Ordnance Depot, an Officer of the Canadian Army Overseas, having been duly sworn states as follows:-

As a result of information received from the Regimental Police on Saturday, 21 Aug. 43, I caused A-56335, Pte. Exelby, R.M., whom I now recognize, to be paraded to me and I questioned him on the disappearance of a number of cases, map, carrying. I asked the accused whether he had had any of the cases in question on his truck, and whether he had disposed of any. Pte. Exelby said "I took them from R.S.D. I gave one to a soldier in No. 1 C.B.O.W. behind the Paint Shop." Questioned as to the identity of the soldier, Pte. Exelby said that he did not know what his name was. I asked Pte. Exelby how many he had taken, and he admitted to having taken four. He said that he had one case in his kit bag and had disposed of two more, one to a Pte. Cooke and one to a Pte. Sullivan. Asked what consideration he was being given he replied that the men whom he had given the cases to were going to give him something at the end of the month. Pte. Exelby said that a number of the other men who were working at the Siding were helping themselves to the same articles. He also said that he was not expecting any consideration from the unknown soldier at 1 C.B.O.W. who had received one of the cases. After questioning the accused I ordered an inspection to be made of the effects of Pte. Exelby, which was carried out in my presence. During the inspection a number of articles were found which I now produce, and which I have listed on a schedule, which I now hand to the Court. The second case, map, carrying, was found under the mattress of the accused, and on questioning then admitted to having taken five. Asked where he had obtained the various articles, he replied "From R.S.D.". The accused, however, insisted that one pair of goggles shown in the Schedule handed to the Court, and contained in a cardboard box, was the first issue of goggles made to him from the C.M. Stores. However, a total of three pairs of goggles was found on the accused, whereas in his M.B.M. Part III he is charged with only one pair of goggles.

In the effects of the accused was also found a box of chocolates, which the accused admitted having received from Pte. Cooke in consideration for the case, map, carrying.

I ordered the accused to be held in close arrest.

The accused declines to cross-examine this witness.

B. A. Diekman
Cpt.

A. L. H.

Summary of Evidence in the case of No. A.56335 Pte. Exelby, R.M., on strength of No.1 Sub-Depot (M.T. Stores Coy) 1 C.B.O.D., a soldier of the Canadian Army Overseas.

Charges:-

(1) Improper possession of Public Property.

The Officer Commanding directs that the Summary of Evidence be taken under oath.

1st Witness
for the
Prosecution

Capt. Bernard Augustus Dickman, Unit Security officer and officer in charge of Tools and Technical Stores, No. 1 Sub Depot (M.T. Stores Coy), 1 Cdn. Base Ordnance Depot, Royal Canadian Ordnance Corps, having been duly sworn states:-

As a result of information received I proceeded to Hat No. 20 Lower Oakhanger Camp, 1 Sub-Depot, 1 C.B.O.D. on or about 19th August 43 accompanied by A.56335 Pte. Exelby, R.M. who I now recognized for the purpose of inspecting his belongings. During the inspection I found in his possession a quantity of military tools and equipment not on charge to Pte. Exelby in M.E.M. 1 Part III. In my capacity as officer in charge of tools and technical stores I have listed and priced the articles which I found in Pte. Exelby's possession. I identify the articles and hand the Court the priced list which I established. (Exhibit "A")

B. A. Dickman Capt.
(B. A. Dickman) Capt.,
No.1 Sub-Depot, 1 CBOD, RCOG.

The accused declines to cross-examine this witness.

2nd Witness
for the
Prosecution

C.34510, Pte. Cooke, R.E., No.1 Sub-Depot (M.T. Stores Coy), 1 Cdn. Base Ordnance Depot, Royal Canadian Ordnance Corps, having been duly sworn states:-

On Friday 20th August 43, Pte. Exelby came in with the kits and he (Pte. Exelby) was asking if we would buy them. He didn't say where he got them or anything. We all in the hut looked at them to see if there was any marking or anything on them to show that they were "army". We didn't see any signs at all. He also said that many of them were being given away and as if they were no good to anybody and were being destroyed. So after hearing him say that, we didn't think there was any harm at all, and I gave him a box of chocolates, (a 1-lb. box), and was going to give him three shillings on Pay Day, for the kit.

R. E. Cooke
(C.34510, Pte. Cooke, R.E.)
No.1 Sub-Depot, 1 CBOD, RCOG

The accused declines to cross examine this witness.

First Witness
for the
Prosecution

A.64145, Pte. Sullivan, J.M., No.1 Sub-Depot (M.T. Stores Coy), 1 Cdn. Base Ordnance Depot, Royal Canadian Ordnance Corps, having been duly sworn states:-

On Friday 20th August 43, Pte. Exelby had these boxes and offered me one for sale, and said that they were going to be taken to R.S.D. and destroyed. I said I would take one and pay him ten shillings on Pay Day. I examined the box. I didn't know it was government property. I thought it over after dinner and thought it was rather foolish and was going to return it.

Pte. J. M. Sullivan

(A.64145, Pte. Sullivan, J.M.)
No.1 Sub-Depot, 1 CBOD, RCOO.

The accused declines to cross-examine this witness.

I certify that Rules of Procedure 4 (C) ^{D&F} (D) (E) and (F) have been complied with.

I further certify that the foregoing Summary of Evidence consisting of two pages was taken down in my presence and in the presence and hearing of the accused this thirtieth day of August, 1943 at Bordon, Hants.

J. P. Dorian
(J.P. Dorian) Lieut. & Adjt.,
No.1 Sub-Depot, 1 C.B.O.D., RCOO.

Note: Sheet No. 3 contains Schedule referred to in evidence of First Witness (Exhibit "A").

EXHIBIT "A"List of Articles Found in Possession of
A-88335 Pte. Exelby, R.M.

Sets Tool Ignition in metal box	\$ 7.14
Gauge Peeler	1.00
3 Screw Drivers @ .45¢ each	1.35
Screw Driver, Small, Steel	.20
Rules, Steel, 6"	.85
Rules, Steel, Flexible, 6"	.85
Pliers Diagonal Cutters	2.70
12 Files @ .30¢ each	3.60
Cleaner, File	.15
Vices, Hand	1.90
Wrench Adjustable 5"	.25
Screw Driver, London Pattern, 2" blade	.10
Stone, Oil 8g"	1.00
Tools, Screw Cutting BA, Sets #2 Mk. I	10.75
Carborundum Paste	.35
Covers, Petrol Tank	.50
Handles, File	.15
Chest Steel Empty 11 x 5 x 4	1.00
Padlock & Key	.75
Goggles D.R. 2 prs. @ \$1.88 each	3.76
Cases, Map Carrying 2 @ \$1.75 each	3.50
Satchel Signal	1.00
	<u>\$42.85--\$29.11.6</u>

LIST OF WITNESSES

1. Capt. B.A. Diekman,
No.1 Sub-Depot(M.T.Stores Coy),
1 Canadian Base Ordnance Depot.
2. A.64145 Pte. Sullivan, J.M.,
No.1 Sub-Depot(M.T.Stores Coy),
1 Canadian Base Ordnance Depot.
3. C.34510 Pte. Cooke, R.E.,
No.1 Sub-Depot(M.T.Stores Coy),
1 Canadian Base Ordnance Depot.
4. K.67352 Cpl. Stoddard, J.O.,
No.1 Sub-Depot(M.T.Stores Coy),
1 Canadian Base Ordnance Depot.

Wm. McKinlay Lt.-col.,
(Wm. McKinlay) Officer Commanding,
No.1 Sub-Depot, 1 C.B.O.D., RCOO.

FORM OF APPLICATION FOR A COURT-MARTIAL

No.1 Sub-Depot (M.T.Stores Coy),
1 Cdn.Base Ord.Depot, Regiment

Station **Bordon, Hants.** Date **24 August** 19 **43**
Application for a **Field** Court-Martial

Sir,
I have the honour to submit **one** charge against

No. **A.56335 Pte. Exelby, Robert Morley**
of the **Sub-Depot** under my command, and request you will obtain the sanction of **Commander C.R.U.** that a **Field** Court-Martial may be assembled for his trial at **Bordon, Hants.**

The case was investigated by **(41) Lt.-col. Wm. McKinlay**
(11) Capt. B.A. Diekmann **(111) Capt. D.L. Nichols**
A Court of Inquiry was held on **(b) N/A** (date)
at (Station).

President	}	Ranks,
Members	}	names
	}	and
	}	corps.

The accused is now at **Bordon, Hants** His general character is **(c) Fair**

I enclose the following documents (d):—

1. **One** Charge Sheet (in duplicate) (e).
2. Summary of Evidence, original (f) and **one** ^{copy} ~~XXXX~~.
3. Original Exhibits (g).
4. List of witnesses for the prosecution and defence (with their present stations or addresses) (g).
5. List of Exhibits (h).
6. ~~XXXXXXXXXX~~ (g) ~~XXXX~~.
7. Statement as to character (M.F.B. 355) and regimental and company, etc., conduct sheets for Field Conduct sheets) of accused (g).
8. Statement by accused as to whether or not he desires to have an officer assigned by the Convening Officer to represent him at the trial (R.F. 14 (B)) (h).

Your obedient servant,

Signature of Commanding Officer

Wm. McKinlay Lt.-col.,
(Wm. McKinlay) Officer Commanding,
No. 1 Sub-Depot, 1 C.B.O.D., RCOG.

To:

MEDICAL OFFICER'S CERTIFICATE

I certify that No **A.56335 Pte. Exelby, Robert Morley** Regiment,
is fit to undergo trial by Court-Martial.

R.H. Balinson Capt.,
Signature of the Medical Officer

(R.H. Balinson) R.C.A.M.C., & M.O.,
No.1 Sub-Depot, 1 C.B.O.D., RCOG.

*Insert "fit" or "unfit"

- (a) Here insert name of—
 - (i) Officer who investigated the charges.
 - (ii) Company, etc., Commander who made preliminary enquiry into the case.
 - (iii) Officer who took down the Summary of Evidence (R.F. 10 (B) (iii)).
- (b) To be filled in if there has been a Court of Enquiry respecting any matters connected with the charges; otherwise to be struck out (R.F. 10 (B) (iv)).
- (c) To be filled in by the Commanding Officer.
- (d) Any items not applicable to be struck out.
- (e) One copy to be sent to the President; one copy to be filed with the application for trial.
- (f) Original summary of evidence to be sent to the President.
- (g) 1, 4, 5 and 7 to be returned to the Officer Commanding the unit of the accused with the notice of trial.
- (h) 3 and 6 to be sent to the President.
- (i) If the accused has elected to be tried under A.A. 66 (3), the fact should be recorded at the top of this form.

CHARGE SHEET

The accused, No. A-56335, Pte. Exelby, R.M.,
No. 1 Sub-Depot (M.T. Stores Coy.), 1 Canadian Base
Ordnance Depot, a soldier of the Canadian Army Over-
seas, is charged with:--

First Charge
Sec. 40
Army Act

While on Active Service conduct to the prejudice
of good order and military discipline

in that he

at Bordon, Hants, on the 20th Aug 45, was im-
properly in possession of Public Property, namely:--

Sets Tool Ignition in metal box	\$ 7.14
Gauge Feeler	1.00
3 Screw Drivers @ .45/ each	1.35
Screw Driver, Small, Steel	.20
Rules, Steel, 6"	.85
Pliers, Steel, Flexible, 6"	.85
12 Files @ 30¢ each	2.70
Cleaner, File	3.80
Vices, Hand	.15
Wrench, Adjustable, 5"	1.90
Screw Driver, London Pattern, 2" blade	.25
Stone, Oil, 8 1/2"	.10
Tools, Screw Cutting BA, Sets #2 Mk.1	1.00
Carborundum Paste	10.75
Covers, Petrol Tank-	.35
Handles, File	.50
Chest, Steel, Empty 11 x 5 x 4	.15
Pedlock and Key	1.00
Goggles, D.R., 2 pairs @ \$1.88 each	.75
Cases, Map Carrying, 2 @ \$1.75 each	3.76
Satchels, Signal	3.50
	<u>1.00</u>
Total Value	<u>\$42.88 (\$9.11.6)</u>

property of the Canadian Government.

P. Steele
(P. Steele), Lt.-Col.,
O.C., No. 1 Sub-Depot,
1 Cdn. Base Ordnance Depot,
Royal Canadian Ordnance Corps.

1st Witness
for the
Prosecution

Summary of Evidence in the case of No. A.56335 Pte. Exelby, R.M., on strength of No.1 Sub-Depot (M.T. Stores Coy) 1 C.B.O.D., a soldier of the Canadian Army Overseas.

Charges:-

(1) Improper possession of Public Property.

The Officer Commanding directs that the Summary of Evidence be taken under oath.

1st Witness
for the
Prosecution

Capt. Bernard Augustus Diekman, Unit Security officer and officer in charge of Tools and Technical Stores, No. 1 Sub Depot (M.T. Stores Coy), 1 Cdn. Base Ordnance Depot, Royal Canadian Ordnance Corps, having been duly sworn states:-

As a result of information received I proceeded to Hut No. 20 Lower Cakhanger Camp, 1 Sub-Depot, 1 C.B.O.D. on or about 19th August 43 accompanied by A.56335 Pte. Exelby, R.M. who I now recognized for the purpose of inspecting his belongings. During the inspection I found in his possession a quantity of military tools and equipment not on charge to Pte. Exelby in M.W.M. 1 Part III. In my capacity as officer in charge of tools and technical stores I have listed and priced the articles which I found in Pte. Exelby's possession. I identify the articles and hand the Court the priced list which I established. (Exhibit "A")

B. A. Diekman Capt.
(B. A. Diekman) Capt.,
No.1 Sub-Depot, 1 CBOD, ROOC.

The accused declines to cross-examine this witness.

2nd Witness
for the
Prosecution

C.34510, Pte. Cooke, R.E., No.1 Sub-Depot (M.T. Stores Coy), 1 Cdn. Base Ordnance Depot, Royal Canadian Ordnance Corps, having been duly sworn states:-

On Friday 20th August 43, Pte. Exelby came in with the kits and he (Pte. Exelby) was asking if we would buy them. We didn't say where he got them or anything. We all in the hut looked at them to see if there was any marking or anything on them to show that they were "army". We didn't see any signs at all. He also said that many of them were being given away and as if they were no good to anybody and were being destroyed. So after hearing him say that, we didn't think there was any harm at all, and I gave him a box of chocolates, (a 1-lb. box), and was going to give him three shillings on Pay Day, for the kit.

R. E. Cooke
(C.34510, Pte. Cooke, R.E.)
No.1 Sub-Depot, 1 CBOD, ROOC

The accused declines to cross examine this witness.

3rd Witness
for the
Prosecution

A.64145, Pte. Sullivan, J.M., No.1 Sub-Depot (M.T. Stores Coy), 1 Cdn. Base Ordnance Depot, Royal Canadian Ordnance Corps, having been duly sworn states:-

On Friday 20th August 43, Pte. Exelby had these boxes and offered me one for sale, and said that they were going to be taken to R.S.D. and destroyed. I said I would take one and pay him ten shillings on Pay Day. I examined the box. I didn't know it was government property. I thought it over after dinner and thought it was rather foolish and was going to return it.

Pte J. M. Sullivan

(A.64145, Pte. Sullivan, J.M.)
No.1 Sub-Depot, 1 CBOD, RCOC.

The accused declines to cross-examine this witness.

I certify that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

I further certify that the foregoing Summary of Evidence consisting of two pages was taken down in my presence and in the presence and hearing of the accused this thirtieth day of August, 1943 at Bordon, Hants.

J. P. Dorton
(J.P. Dorton) Lieut. & Adjt.,
No.1 Sub-Depot, 1 C.B.O.D., RCOC.

Note: Sheet No. 3 contains Schedule referred to in evidence of First Witness (Exhibit "A").

EXHIBITList of Articles Found in Possession of
A-56335 Pte, Exelby, R.M.

Sets Tool Ignition in metal box	\$ 7.14
Gauge Feeler	1.00
3 Screw Drivers at .45 cents each	1.35
Screw Driver, Small, Steel	.20
Rules, Steel, 6"	.25
Rules, Steel, Flexible, 6"	.25
Pliers Diagonal Cutters	2.70
12 Files at .30 cents each	3.60
Cleaner, File	.15
Vises, Hand	1.90
Wrench Adjustable, 5"	.25
Screw Driver, London Pattern, 2" blade	.10
Stone, Oil 8 1/2"	1.00
Tools, Screw Cutting BA, Sets No.2 Mx.1	10.75
Carborundum Paste	.35
Covers, Petrol Tank	.50
Handles, File	.15
Chest Steel Empty, 11 x 5 x 4	1.00
Padlock & Key	.75
Goggles D.R. 2 prs. at \$1.88 each	3.76
Cases, Map Carrying 2 at \$1.75 each	3.50
Satchel Signal	1.00
	<u>\$42.85 -- 49.11.6</u>

Request by the Accused for an Officer to Represent him at Trial.

I, A. 56335 Pte. Exelby, R.M., desire to have Lieut. W.A. Buckley, of No.1 Sub-Depot, 1 Cdn. Base Ordnance Depot, represent me at my trial by Court Martial.

R.M. Exelby

(A. 56335 Pte. Exelby, R.M.,
No.1 Sub-Depot(M.T. Stores Coy),
1 Canadian Base Ordnance Depot.)

No A. 56335 Name EXELBY, R.M.

Sqn., Battery,
or Company

Corps R.C.C.C.

Date of
enlistment 24/3/41G.C.
BadgesService or
Proficiency Pay

M.F.M. 6

(S.F. B.127)

40/P & B126 (2000)

Date of last entry in
Company Conduct SheetNo. and date
of last drunkPeriod not reckoning towards
freedom from extra fine

Sheet No. 2

Signature G.C.
Company, etc.{Sgd}
{J.P. Dorion}Character
Lieut.

Place	Date of offence	Rank	Case of drunken- ness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispen- sing with trial	By whom awarded	Remarks
Old sheet destroyed			24	Sep 41.					J.P.D.
Field	16/3/42	Pte	--	1) Sec. 40 AA Conduct etc., in- properly in possession of a clasp knife and a third suit of battle dress. 2) Sec. 11 AA Neglect to obey Part I Orders.	AQMS Screaton Sgt. Murphy	28 days det.	19/3/42	Major C.H. Hillier	J.P.D.
Field	7/7/42	Pte	--	Sec. 41 AA Driving vehicle with- out proper work ticket.	Cpl. Morrow L/Cpl. McKee	7 days forf. pay FR&I. 149(2)	17/7/42	Capt. G.M. Hunter	J.P.D.


 (P.T.O.)

Place	Date of offense	Rank	Charge or drunkenness	OFFENSE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	31/7/42	Pte.	--	Sec.11 AA Neglect to obey standing orders (driving WD vehicle at an excessive rate of speed).	Documentary	14 days Forf. pay	8/8/42	Capt. G.M. Hunter.	J.P.D.
Field	1/8/42	Pte.	--	Sec.11 AA Neglect to obey standing orders (driving WD vehicle at an excessive rate of speed).	Documentary	See previous charge			J.P.D.
Field	26/9/42	Pte.	--	Sec.18(4)AA Stealing cigarettes from another soldier.	Pte.Allan Pte.Corbett Pte.Flelce	28 days F.P.	10/10/42	Maj.G.M. Hunter.	Forf.28 days pay FR&I.149(1b) J.P.D.
Field	6/1/43	Pte.	--	Sec.11 AA Neglect to obey Unit Standing Orders (improperly dressed).	Documentary	10 days forf. pay	11/1/43	Maj. Hillier	J.P.D.

NoA.56335 Name Exelby, R.M. Sqn. Battery, or Company

Corps R.C.O.C.

Date of enlistment 24/3/41

G.C. Badges

Service or Proficiency Pay

M.F.M. 6 (A.F. H.122) 40/P 6/5132 (2005)

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No. 2

Signature O.C. Company, etc.

(Sgd) (J.P.Dorion) Character Lieut.

Place	Date of offence	Rank	Case of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	13/1/43	Pte.	-	Sec.15(1)AA,AWL from 1915 hrs, to 2130 hrs, 13/1/43 from guard room whilst a member of the guard.	L/Cpl.C.W. Morden.	14 days forf. of pay.	15/1/43	Maj.C.H. Hillier.	J.P.D.
Field	2/2/43	Pte.	-	Sec.40 AA Neglected to clean his rifle.	Lt.Hogan.	7 days C.B.	3/2/43	Maj.R.J. Bruce.	J.P.D.

J.P.D.
(P.T.O.)

No A. 56335 Name Exelby, R.M.

Sqn., Battery,
or Company

Corps R.C.O.C.

Date of
enlistment 24/3/41G.C.
BadgesService or
Proficiency PayM.F.M. 6
(A.F. B.122)
40/P & /5156 (2265)Date of last entry in
Company Conduct SheetNo. and date
of last drunkPeriod not reckoning towards
freedom from extra fine

Sheet No. 2

Signature O.C.
Company, etc.(Sgd)
(J.P.Dorion)Character
Lieut.

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
Field	13/1/43	Pte.	-	Sec.15(1)AA, AWL from 1915 hrs, to 2130 hrs, 13/1/43 from guard room whilst a member of the guard.	L/Cpl.C.W. Morden.	14 days forf. of pay.	15/1/43	Maj.C.H. Hillier.	J.P.D.
Field	2/2/43	Pte.	-	Sec.40 AA Neglected to clean his rifle.	Lt.Hogan.	7 days C.B.	3/2/43	Maj.R.J. Bruce.	J.P.D.


 (P.T.O.)

XXX-62

PTE EXNER, D.J



Order of Brig JC Stewart, CBE, DSO Comd "C" GP, CRU dated 18 Sep 44
ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appt, A/rank or A/appt, if any, see AA 182, 183, fn, KR Can 308, 328, 330.)
Number. (a) Prmt R. (b) Appt, A/R or A/Appt. Full Christian Names. Surname. Unit.
B-113787 Pte Dennis John EXNER, 1 COMERU

SCHEDULE.

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

Accused: B-113787 Pte EXNER, D.J. - 1 COMERU

Charge.	Plea.	Finding.	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
(Insert "alternative" where applicable.) 1st AA Sec 1B(4)	Guilty	Guilty	
2nd AA Sec 40	Guilty	Guilty	
3rd			
4th			
5th			
6th			

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

At present order retention for beginning on (date) (1) (2)
(1. Insert sentence being served, or date, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B286.)

Time in confinement awaiting present trial—a total of 8 days, of which 3 days were spent in hospital. (1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To undergo detention for a period of 90 days

(Sgd) 18 Sep 44 M. J. Stewart
Judge-Advocate, if any. Date awarded. President. (RP 45, 30)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(f), MML p 742.)

Date (Sgd) Commanding

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 52, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 13A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

(Sgd) J. C. Stewart
Date 20 Sep 44 Commanding
J. C. STEWART, Brigadier,
Commanding "C" Group,
Cdn. Parachute Corps.

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

Accused. Date. Signature of Offr.
B-113787 Pte EXNER D.J. 20 Sep 44 [Signature]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALED.

FIELD GENERAL COURT-MARTIAL

PROCEEDINGS OF TRIAL.
Held in the field in (country) England on (date) 19 Sep 44
RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALED BY PRES OR JA. The Schedule referred to throughout is in p 4. Citations do NOT include all relevant fn notes. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 739. A brief record of such variation will be made and given a number having reference to appropriate or preceding case number herein. See back of Convening Order, CP 495, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, sub-pps 73, 74, 94, 103, 118, 132.)

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

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

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

A5. President to accused—Do you object to [Name] as interpreter? Ans. NO
The interpreter is sworn. (1) Do you object to [Name] as shorthand writer? Ans. NO
The shorthand writer is sworn. (1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused. President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans. NO
(1. RP 110. 2. If no objection, waiting member sworn: RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

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

President	Lt-Col	D. J. ROSSAN	H. CRU
Member	Capt	J. W. MITCHELL	1 CARU
Member	Lt	J. BRAUNHART-CHAMPAGNE	1 CARU
Judge-Advocate	Lt	E. W. MEDVED	1 COMERU
Prosecutor	Lt	E. MOTTLETON	1 COMERU
Defending Offr	Lt	E. MOTTLETON	1 COMERU

Questions by President: Is the Prosecutor a lawyer? Ans. NO. Is the Defending Offr a lawyer? Ans. NO.
(1. RP 26, 27, 109, 111. List of Offrs under instr will be returned separately with proceedings for information of Court Offrs.)
(2. If Pres a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and (n 1) were not followed. See CP p 23.)

A8. The accused before arraignment makes (no) plea.
(1. If a special plea is made for separate trial on one or more charges (RP 426), 106L, or as to the jurisdiction of the Court (RP 34, 150A, 112), or in lieu of trial (RP 26), or as to accused's mental fitness to stand trial (AA 130, RP 17), or by one of several accused charged jointly to be tried separately (RP 15, 71), such plea, the addresses made in support or against the evidence, if any, and finding are recorded per Notes. For forms of record see references in fn to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (was) arraigned (summarily) on all charges in the charge sheet. (1) The accused does (does not) object to any charge. (2) There is no amendment to be made to the Charge Sheet. (3) The President records the plea in Part I of the Schedule.
(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(c), and see separate copies of CP 495 to record proceedings. 2. RP 22, RP 23. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (re-viewed and) considers the instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B".
PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. B-113787 Private Dennis John EXNER, Royal Canadian Ordnance Corps, on the strength of No. 1 Canadian Ordnance and Mechanical Engineers Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SECTION 18 (4)
ARMY ACT

"WHILE ON ACTIVE SERVICE, STEALING PROPERTY
OF A PERSON SUBJECT TO MILITARY LAW"

in that he

At No. 1 Canadian Ordnance and Mechanical Engineers Reinforcement Unit, Bordon, Hants, at approximately 1115 hours on 11 September 1944, stole (600) six hundred cigarettes, the property of No. D-21433 Private Standish, J., Royal Canadian Ordnance Corps, on the strength of No. 1 Canadian Ordnance and Mechanical Engineers Reinforcement Unit, a person subject to military law.

SECOND CHARGE
SECTION 40
ARMY ACT

"WHILE ON ACTIVE SERVICE, CONDUCT TO THE
PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE"

in that he

At No. 1 Canadian Ordnance and Mechanical Engineers Reinforcement Unit, Bordon, Hants, on 11 September 1944 was improperly in possession of a Service Book, Part I, the property of No. D-21433 Private Standish, J., Royal Canadian Ordnance Corps, on the strength of No. 1 Canadian Ordnance and Mechanical Engineers Reinforcement Unit.

H. Hamer
Lt.-Colonel,
(H. Hamer) Lt.-Colonel,
A/Commanding Officer,
No. 1 Cdn Ord & Mech Engr Rft Unit.

Bordon, Hants,
14 Sep 44.

To be tried by Field General Court Martial,

J. Stewart
Brigadier,
Commander ^{MCW} Group, Cdn Rft Units.
(Convening Officer)

Bordon, Hants,
18 Sep 44.

1114

MEDICAL OFFICER'S CERTIFICATE KR(Can) para 557

I certify that I have this morning examined No. B-113787 Private
Dennis John EXNER of No. 1 C.O.M.E.R.U. and in my opinion he
is fit to undergo trial by Court Martial.
~~unfit~~ *Fit*

(cross out one N/A and initial)

Station:

Date:

F.R. Houston Capt
No: 1 C.O.M.E.R.U.
Medical Officer R.C.A.M.C.

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CASE OF

B.113787

Pte

EKNER

D.J.,

1 COMERU

STATEMENT BY ACCUSED
(ON OATH)

E-(

On Sep 11 I rose around noon as I'm a welder on the night shift, Sir. There were cig slips laying on Pte Standish's bed and for some unknown reason I can't account for I took the slips along with his service book which was also lying on his bed. I went to the Post Office cashing in the cig slips and signing a receipt card for same. After leaving the P.O. I realized what I'd done and went right back to our own camp Louisburg South and immediately took steps to return the cigs. I was unable to contact Pte Standish until after supper as he was working at the shop at the time, so I got in touch with Pte Anderson telling him that I had got myself into a jam and explained what I'd done and also that I intended to see the Sjt-Maj and tell him the story and asked Pte Anderson if he would get hold of Standish for me and also return the cigs for me. He brought Standish down to the S.M.'s quarters and I told Standish of what I had done and that the cigs were returned intact. Standish then left and I waited for the S.M. who came along shortly after. I explained to the Sjt-Maj exactly what I had done and told him also that I admitted the same story to Pte Standish and had returned the cigs. That is all, Sir, and after that the S.M. escorted me to the Guard Room. I might say here that the 28 days dtn there in my crime sheet was in May 43 at Camp Barrierfield for striking a NRMN Corporal who made certain remarks which I didn't think I should take so I just struck him.

NO CROSS-EXAMINATION

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

CHARACTER WITNESS

D.21433 Pte STANDISH, J., 1 COMERU, having been duly sworn, states:

- Q. Is the accused a pal of yours?
A. Yes, he is, Sir, and still is a friend of mine, I call him Curly.
- Q. What state were the cigs in when returned to you?
A. Not opened, Sir.
- Q. What do the fellows in your hut think of the accused?
A. They've a very good opinion of him, Sir, he is more or less the life of the hut.
- Q. If you had a sum of money would you leave it with Standish?
A. Yes, I would, Sir.

NO CROSS-EXAMINATION

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

CHARACTER WITNESS

D.122617 A/CSM (NO II) WALKER, F., 1 COMERU, having been duly sworn, states:

The accused has been in my Coy about 10 weeks, Sir, and in that time his conduct has been very good. Pte Standish came to me the following morning after this incident, to see if he could get Pte ~~EKNER~~ off in any way and the charge quashed, but I told him it was too late. *WJ* *WJ*

NO CROSS-EXAMINATION

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

"PLEA OF MITIGATION"

RE: B-113878 PRIVATE EXNER, L.D.

The accused admits that in a moment of weakness he secured cigarettes belonging to his room mate but immediately on realising his foolishness returned them to their rightful owner. Unfortunately in the army the distinct barrier between honesty and dishonesty has been broken down and many things are done in the army with the knowledge of higher ups, which in civilian life would be frowned on, in fact called down right dishonest. Many times as another rank have I heard officers of fairly high rank make the statement that it is not a crime to break an army rule or regulation, it is only in getting caught. I mention this because scrounging, which according to the dictionary means "to appropriate" is a common army practice which is followed by most of us, and yet the majority of us are honest and would not think of stealing or even condoning it by others.

The accused is a man of good character having had no previous convictions in civil or military life. He is married and has a little girl one year old. To brand him a thief and criminal for the rest of his days due to one foolish act done on impulse and not pre-mediated, would be injustice not only to him but to his wife and little child.

The witnesses for the prosecution, CSM Walker, ~~Pte. Anderson~~ and Pte. Standish have given evidence as to the character of the accused, and to the high regard held for him by his room mates. The accused was in private business with a partner, both of whom gave up their business in order to join H.M. Forces for Overseas service. His record to date has been good and I therefore make a strong plea that his one lapse from responsibility should not be allowed to ruin his future, and brand him for the rest of his days as a thief and a criminal. At present he is a citizen Canada can be proud of - let him remain one.

J. Miller
Officer detailed to defend.
Pte. L.D. Exner.

E-3
M

SUMMARY OF EVIDENCE

Summary of Evidence in the case of No. B-113787 Private Dennis John EXNER, R.C.O.C. on the strength of No. 1 Canadian Ordnance and Mechanical Engineers Reinforcement Unit, a soldier of the Canadian Army Overseas.

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

First Witness
For the
PROSECUTION

No. M-16238 Corporal Cooney A.O. (R.C.E.M.E.) on the strength of No. 1 Canadian Ordnance and Mechanical Engineers Reinforcement Unit, having been duly sworn states:-

I am N.C.O. in charge of the Unit Post Office at Martinique Barracks, No. 1 C.C.M.E.R.U. At approximately 1115 hours 11 September 1944 whilst on duty, Private E.W. Robinson also on duty in the post office, approached me and asked me if he should give two parcels, each containing 300 cigarettes to a soldier who claimed he was Private Standish J. as Private Robinson did not recognize him as such. I did not recognize the soldier as Private Standish, but as the regulations state that parcels will be released on signature when the proper service book is produced, I granted authority for the release of the cigarettes. When the soldier, whom I now recognize as the accused, left the post office with the cigarettes, I examined with Private Robinson, the parcel receipt card of Private Standish, on which signatures are obtained for receipt of all parcels. I noticed that the signatures made by the accused were not identical to those made for previous receipts. Private Robinson reported to me that he had ascertained from Corporal Whyte F.G. who was present at the time; that the soldier who obtained the cigarettes was not Private Standish. I then reported the matter to Administration Wing Orderly Room and to the Regimental Police.

At approximately 1315 hours 11 September 1944, Private E.W. Robinson and I went to No. 2 Company Orderly Room and ~~see para~~ CSM Walker. We told him the circumstances and asked to see Private J. Standish. When Private Standish arrived, he was asked if he had recently received any cigarettes. Private Standish said, "No, I haven't received any for two or three weeks". He was then asked for his service book. He said he had it in his jacket pocket in his hut. I produced the parcel receipt card and asked him if those were his signatures. He said, "No, these two are not my signatures" (pointing to the last two on the card). CSM Walker, Private Robinson, Corporal Whyte and myself went with Private Standish to his hut. He then produced his service book which I recognized as the one used when the cigarettes were issued. When the hut orderly was questioned whether anyone had been in the hut during the morning he said the man in the bed bearing Private EXNER'S name had been in during the morning. His description corresponded with that of the man who secured the cigarettes. I produce the Parcel Signature Card (marked exhibit 'A') which are kept in the Unit Post Office for the purpose of obtaining receipts for parcels belonging to No. B-21433 Private Standish J.

The accused declines to cross examine this witness.

Cpl. Cooney A.O.

MM

Second Witness
For the
PROSECUTION

No. C-94446 Private Robinson E.W. (R.C.O.C.) on the strength of No. 1 Canadian Ordnance and Mechanical Engineers Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states:-

I am employed at the Unit Post Office, Martinique Barracks, No. 1 C.O.M.E.R.U. At approximately 1115 hours 11 September 1944 a soldier, whom I now recognize as the accused, produced a service book in the name of, D-21433 Private Standish J. demanding a parcel of 300 cigarettes. At the time there were two parcels awaiting Private Standish. I did not recognize the accused as Private Standish, whom I knew previously but thought it possible that there were two soldiers within the unit bearing the same name. I checked the Parcel Receipt Cards, but only found one under the name of J. Standish. I told Corporal Cooney, N.C.O. i/c Unit Post Office of the circumstances, who after checking the Service Book Part I, released the parcels and obtained signatures from the accused on Private J. Standish's Parcel Receipt Card. Corporal Whyte F.G. who was present in the post office said, "The man was not Private Standish", or words to that effect. At approximately 1315 hours 11 September 1944, I went with Corporal Cooney to No. 2 Company Office and saw CSM Walker. He was asked if there were a Private Standish J. D-21433 in his company. We told CSM Walker the circumstances regarding the cigarettes. He then had Private Standish paraded to us. Private Standish was asked whether he had drawn any cigarettes that day, and was also asked for his service book. He said that he had not drawn any cigarettes and that his service book was in his tunic in his hut. Corporal Cooney produced Private Standish's Parcel Receipt Card and asked him if the last two signatures were his. He replied that they were not. Corporal Cooney, Corporal Whyte and myself went with Private Standish to his hut, where he produced his service book, which I recognized as the one produced at the post office by the accused.

The accused declines to cross examine this witness.

Robinson E.W. Pte
.....

1115

Third Witness
for the
PROSECUTION

No. C-98438 Corporal Whyte F.G. (R.C.C.C.) on the strength of No. 1 Canadian Ordnance and Mechanical Engineers Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states:-

I was present in the Unit Post Office, Martinique Barracks, No. 1 C.O.M.E.R.U. at approximately 1115 hours 11 September 1944. A soldier employed in the Post Office, whom I now know as Private Robinson W.E. asked me if I knew the soldier who had just left the Post Office. I said that I did know him as 'Curly' but did not know his surname. Private Robinson then asked me if the man's name was Standish. I told him I did not think so.

The accused declines to cross examine this witness.

F.G. Whyte Cpl
.....

Fourth Witness
for the
PROSECUTION

No. D-122617 A/CSM Walker F. (R.C.C.C.) on the strength of No. 1 Canadian Ordnance and Mechanical Engineers Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states:-

I am Company Sgt-Major of No. 2 Company, No. 1 C.O.M.E.R.U. at South Louisburg Barracks. At approximately 1315 hours 11 September 1944, Corporal Cooney and Private Robinson of the Unit Post Office and a member of the Regimental Police approached me and asked if there was a No. D-21453 Private Standish J. on my company strength. I ascertained that there was. When told of the circumstances regarding the cigarettes, I had Private Standish paraded to me. Private Standish was asked if he had his Service Book Part I. Private Standish said, "no", "It is in my tunic pocket in my hut". He was then asked if he had secured any parcels of cigarettes from the unit post office that day. Private Standish stated that he had not. The Parcel Receipt Card for Private Standish was then shown to him. He stated that the two signatures in question on the card were not his. About 1715 hours Private Anderson (R.C.C.C.) on the strength of No. 1 Company, approached me on the square and told me that Private KEMER D.J. whom I now recognize as the accused, wished to see me, at my quarters. I saw Private KEMER, who said that he had got himself into a lot of trouble by obtaining some cigarettes from the post office belonging to Private Standish illegally. I asked him where the cigarettes were. He said, "I put them back on Private Standish's bed and have seen Standish about this". I placed the accused under close arrest and escorted him to the guard room.

The accused declines to cross examine this witness.

Walker CSM
.....

1117

Fifth Witness
For the
PROSECUTION

No. H-21092 Private Anderson R.R. (R.C.O.C.) on the strength of No. 1 Canadian Ordnance and Mechanical Engineers Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states:-

I was in my hut about 1700 hours 11 September 1944, when Private EKNER, whom I now recognize as the accused, called me outside and told me that he was in trouble regarding cigarettes, and wanted me to see the Sgt-Major. He gave me the cigarettes, asking me to put them on Private Standish's bed, and to have Standish see him by the Sergeants Quarters. I got Private Standish to go with me to see Private EKNER. Private EKNER then told Standish what he had done and asked him, "What should I do now" ? or words to that effect.

I went to the square and seen CSM Walker telling him that Private EKNER wished to see him. When I ~~seen~~ saw the Sgt/Major with Private EKNER, who was alone, I returned to my hut.

The accused declines to cross examine this witness.

R.R. Anderson
.....

Sixth Witness
For the
PROSECUTION

No. D-21433 Private Standish J. (R.C.O.C.) on the strength of No. 1 Canadian Ordnance and Mechanical Engineers Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states:-

About 1315 hours 11 September 1944, I was paraded to CSM Walker, who asked me if I had my paybook and how long ago I had received any cigarettes. I told him that my paybook was in my tunic pocket in my hut, and that it was roughly three weeks since I last received any cigarettes. I went to my hut and secured my paybook Part I, and showed it to the Sgt-Major. Accompanied by CSM Walker, Private Robinson and a Corporal from the post office and Corporal Whyte F.G. I returned to my hut, and while there Corporal Whyte said that he thought that it was the owner of a kit bag in the hut, which had since been identified as Private EKNER, that signed for the cigarettes.

At approximately 1715 hours, Private Anderson R.R. seen me at the kitchen and told me that he had put some cigarettes on my bed, which had been given to him by Private EKNER and that Private EKNER wanted to see me. I went with Private Anderson to the Sergeants quarters where I saw Private EKNER. He told me that he had returned the cigarettes and had decided to see CSM Walker. I returned to my hut and found the cigarettes, the parcels intact. I placed them in my kit bag and let the matter rest.

The accused declines to cross examine this witness.

St. J. Standish
.....

113

The accused was cautioned as follows:- "Do you wish to make any statement, or to give evidence on oath?"

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

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

Dennis J. Law

I certify that the foregoing Summary of Evidence, consisting of (5) five pages was taken down, by me in the presence and hearing of the accused and that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

Bordon Hants,
14 September 1944.

M. W. Madved
.....
(M.W. Madved) Lieutenant
Officer Detailed to take
Summary of Evidence

EXA
MY

In the case of No. B-113787 Private Dennis John EKNER, Royal Canadian Ordnance Corps, on the strength of No. 1 Canadian Ordnance and Mechanical Engineers Reinforcement Unit, a soldier of the Canadian Army Overseas.

I hereby request that the Convening Officer appoint an Officer to represent me at my forthcoming Court Martial.

Borden Hants,
9 September 1944

Dennis J. Ekner
.....

I hereby acknowledge that I have received a true copy of the Summary of Evidence taken at South Louisburg, preliminary to my Court Martial and I further acknowledge receipt of a copy of the Charge Sheet under which I am being brought to Court Martial.

Borden Hants,
14 September 1944

Dennis J. Ekner
.....

SUMMARY OF EVIDENCE IN THE CASE

R-113787 Private Dennis John EKNER

R.C.C.C.

NO. 1 CANADIAN ORDNANCE & MECHANICAL ENGINEER REINFORCEMENT UNIT

LIST OF WITNESSES

FOR THE PROSECUTION

M-16238 Cpl. Cooney, A. C. No. 1 C.O.M.E.R.U.

C-94446 Pte. Robinson, E. W. No. 1 C.O.M.E.R.U.

C-98438 Cpl. Whyte, F. G. No. 1 C.O.M.E.R.U.

✓ D-122617 A/CSM Walker, F. No. 1 C.O.M.E.R.U.

H-21092 Pte. Anderson, R. R. No. 1 C.O.M.E.R.U.

✓ D-21433 Pte. Stendish, J. No. 1 C.O.M.E.R.U.

FOR THE DEFENCE

NIL

LIST OF EXHIBITS (A) Parcel Receipt Card.

14 Sep 44

H. Hamer
(H. Hamer) Lt.-Colonel
A/Commanding Officer,
No. 1 Cdn Ord & Mech Engr Rft Unit

RAMBERTA - A.C. ~~1944~~

D. 21433. PTE. STANDISH J.

DATE	PAPER No.	QUANTITY	SIGNATURE	DATE
30/3/44	D. 29540-	300-	J. Standish	4-4-44
5/4/44	C. 95492-	1000-	J. Standish	6/4/44
10/4/44	F. 5. 1144-	T.O.B.	J. Standish	13/4/44
11/4/44	E. 4. A13230-	300- ²⁵	3915 Reserve	17/4/44
20/5/44	P.C.L.	1	J. Standish	20/5/44
20.7.44	F. 23154	300	J. Standish	2/4/44
8/7/44	23263.	300	J. Standish	
11/9/44	22922	300	J. Standish	

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

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

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

Signed this

19

day of

September 1944

Quinn

Capt & Adjt.

No. 1. C&M Grd Mech Engrs Relief Unit.

NB113787 Name EXNER, D.J.

Sqn. Battery,
or Company

Corps R.C.O.C.

Date of
enlistment 3 JuneGC -
BadgesService or
Proficiency Pay \$1.503/17 MFM 6
(AFB 122)
10/P&S/150 (6412)Date of last entry in
Company Conduct SheetNo. and date
of last drink 4Period not reckoning towards
freedom from extra fine

Sheet No One

Signature OC
Company, etc

R.H. Vaughan, Lieut.

Character

Place	Date of offense	Rank	Case of drunken- ness	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order dispen- sare with trial	By whom awarded	Remarks
A21 COCTC Barriefield	25-5-43	3 Pte		(Prejudice to good order and Mil. Disc.)		28 days Detn.	25-5-43		Forfeits 28 days pay. Sec. 40 Army Act. Granted 4 days remis- sion of sent- ence.
					Certified correct as taken from Certified True Copy M.F.M. 2A.				
					L.E. Eddie, Lieut. Asst. Adj. for (A.E. Duncanson) Colonel Commanding A-21 C.O.C.T.C.				
Barriefield Ont	1943 31 Dec	Pte.		AWL from 1200 hrs. 31 Dec 43 to 0600 hrs. 3 Jan 44 (2 Dys 18 Hrs)	CSM Tapper Spl. Comeau	7 Days C.B.	3 Jan 44	Major J.C. IRVINE	Forfeits 3 Days Pay FR&I. JCI

Place	Date of offence	Rank	Charge of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Barrie field Ont.	1944 30 Jan	Pte		Neglect to the prejudice, etc., Neglect of night fireman duties necessitating a replacement. Sec. 40 A.A.	Cpl. Rogers J.R.	5 days C.B.	1 Feb 1944	J.C. Irvine Major	Forfeits 1 days pay FRAI JCI
BARRIEFIELD CAMP	FEB 4	1944							RHV Lt.
Barrie field Ont.	1944 16 Apr	Pte		A.W.L. from 2200 hrs. 16 Apr. 44 until 0325 hrs. 17 Apr. 44 (T.A 5 hrs. 25 mins.)	Cpl. Hutchinson	5 days C.B.	17 Apr. 44	G.F. Belleck (G.F. Belleck) No. 3 District Major J.A.B.	Administ. Officer Depot C.A.
Barrie field	1944 26 Apr	Pte		A.W.L. from: 1500 hrs 26 Apr 44 to: 2235 hrs 8 May 44, Sec. 15(1)AA.	Egt. Schultz	21 days detn	9 May 44	Reilly Lt-Col. Wurtele	JABR Forfeits 13 days pay, FRAI FWM
				<i>Shunee</i> Captain and Adjutant Officer having custody of Original Document					

52-118 Sm Eyre C. H. Hatched DNP by AGSA

69 M

PEYRE C.H.

Correspondence to be PINNED here.

69 m

Army Form A.3.

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

PROCEEDINGS.

On Active Service, this 27th day of August, 1942.

A.

Order con-
victing the
Court

Whereas it appears to me, the undersigned, an officer in Command of R.C.A.S.C. 1 Canadian Corps

on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

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

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

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

* Omit if not applicable.

~~xxxxxx~~

- *(1. Three Officers to form the Court.)
- *(2. A Field Officer as President.)
- *(3. Three Officers having more than one year's service.)

for the following reasons, namely:—

PROCEEDINGS REVIEWED

*Mr. Graham Capt
Provost Marshal (1942) v.s.
10 Sep 42*

President.		
Rank	Name	Regiment
Major	H.G. Sheppard	63 Cdn Gen Tpt Coy

Members.		
Rank	Name	Regiment
Captain	KHE Du Bois	1 Cdn C.T. Amn Coy
Lieutenant	J.F. O'Connor	42 Cdn Gen Tpt Coy

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

*Signed (F.R. Shields), Col.
Commanding R.C.A.S.C. 1 Cdn Corps
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B.60663 Private Eyre, G.H. Corps Tps Sup Coy	1st Charge Sec. 15(1) A.A. 2nd Charge Sec. 15(1) A.A. 3rd Charge Sec. 15(1) A.A.	Guilty Guilty Guilty	Guilty Guilty Guilty	I confirm the finding and sentence but commute the sentence to be 1 years detention. P.M.

To be imprisoned for a period of one year
To be placed under strict supervision for 12 months
Under guard of the sum of 100/- per day and
Five pence 20/8/42 W. H. Shields Major

* Question to be asked of accused, if he pleads not guilty (R. of P. 34 (A)) :-
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet, if necessary) :-

(Signed) *P. H. Shields* (F.H. Shields), Colonel
Commanding R.C.A.S.C. 1 Cdn. Corps.
Confirming Officer (a) President

(Signed) *W. H. Shields*
President

- (c) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(d) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(e) Recommendation to mercy, if any, to be inserted in this column.
(f) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(g) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

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

I certify that the above Court assembled on the 28th day of August 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

B.
Certificate of President as to proceedings.

I also certify that :-

- The members of the Court
- The witnesses

~~*13 The interpreter~~
~~*14 The officers under instruction~~

were duly sworn.

Signed this 28th day of August 1942

W. H. Shields
President of the Court Martial

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

C.
Certificate in case of death sentences.

Signed this _____ day of _____ 19____

President of the Court Martial

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

D.
Confirmation

* (I direct that the soldier named in the margin be not committed to prison until further orders.)

Signed this 28th day of August 1942

P. H. Shields
Confirming Officer
P. H. Shields, Colonel
R.C.A.S.C. 1 Cdn. Corps.

Promulgated and extracts taken in the case of

(a) (Dated) 29 Aug 42 (Signed) *P. H. Shields*
Commanding Cdn. C.I. Sup. Coy.
R.C.A.S.C.

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

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

CHARGE SHEET

82
W. Shields

The accused, B.60663 Pte. EYRE, Charles Henry,
1st Cdn Corps Troops Supply Coy (33 Coy) RCASC,
a soldier of the Cdn Army Overseas, is charged
with, when on active service:-

First Charge WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF
A.A. Sec. 15 (1) WITHOUT LEAVE

in that he

absented himself without leave from his unit
from 0800 hrs. 11 May 42 until apprehended by
C.M.P. at Oxford at 1230 hrs. 24 Jul 42.
Absent:- 75 days, 4 hrs., 30 mins.

Second Charge WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF
A.A. Sec. 15 (1) WITHOUT LEAVE

in that he

when in arrest at Oxford absented himself at 0635
hrs. 27 Jul 42 until apprehended at 1330 hrs. 18
Aug 42, thereby incurring cost in his apprehension
in the sum of 11 shillings and two-pence.
Absent:- 23 days, 7 hrs.

Third Charge WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF
A.A. Sec. 15 (1) WITHOUT LEAVE

in that he

absented himself from his Unit when in arrest
from 0400 hrs. 22 Aug 42 until he surrendered at
1230 hrs. 22 Aug 42.
Absent:- 14 hrs. 30 mins.

G. L. Simmons
(G. L. Simmons) Major
Comd. C.T. SUP COY (33 Coy)
R.C.A.B.C.

Field
26 Aug 42

To be tried by Field General Court Martial.

Field.
27 Aug 42

J. P. C. Lang
CAPTAIN
RCASC
for (P. B. Shields), Colonel,
B.D.S.T.
1 Cdn. Corps.

*Edith C
Hessley*

THIS IS TO CERTIFY THAT I HAVE EXAMINED THE UNDER/
MENTIONED G.R. AND FIND HIM FIT TO UNDERGO TRIAL
BY F.O.C.M.

B.80663 Pte. Ayre, G.H.



W. Smalls Medical Officer

Summary of Evidence

In the case of S 0663 Pto Egle, C.H., 1st
Cdn Corps Troops Supply Coy (33 Coy) R.C.A.S.C.

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

First witness S P 2775 Cpl. Parfitt, A, 1 Cdn Cpt Tro Supply Coy.
Prosecution being duly sworn states as follows:

I am ordering room clerk at HQ of
1 Cdn Cpt Tro Supply Coy.

I produce herewith —

Exhibit "A" — Certified true copy of declaration
of Court of Inquiry

Exhibit "B" — certificate in accordance
with R.C. 797 — certificate of arrest.

Exhibit "C" — cost of apprehension

Exhibit "D" — cost of apprehension.

These documents apply to the accused
whom I now recognize

accused declines to cross-examine.

W Parfitt

Second witness
Prosecution

Sgt Peake, T., Corps of
Military Police, Oxford.

I certify that owing to exigencies of the
service, including expense + loss of
time involved, the attendance of this witness
cannot be readily procured. The accused
does not demand his presence for cross-
examination

A copy of his statement
purporting to be signed by him
is attached hereto & forms part of the summary.

W. Peake

Third witness
prosecution

Cpl. Archer, J., 159 H.Q. Pro.
Coy. C. 81. P., Oxford.

I certify that owing to the exigencies of the service, including expense and loss of time involved, the attendance of this witness cannot be readily procured. The accused does not demand his presence for cross-examination. ^{but a written statement of his evidence} attached hereto forms part of the evidence.

[Signature]
Cpl.
Officer detailed to take evidence.

Fourth witness
prosecution

S 81978 S/Cpl. Mc Cumiskey, P., 1st
Cdn. Cps. Tps., Sup Coy, R. C. A. S. C.
being duly sworn, states:

I was commander of guard at H.Q. of 1st Cdn Cps Tps Sup Coy. from 1800 hrs 21 Aug 41 to 1800 hrs 22 Aug 41. We had two prisoners to guard, one of whom was Ft Egre, whom I now recognize. At 0400 hrs 22 Aug 41 I discovered that the prisoner had escaped. I searched the area of coy H.Q. and could not find them. Then I reported the matter to the orderly sergeant.
accused declines to cross examine.

P Mc Cumiskey

Fifth witness X 29158 Cpl MacLean, R.H.,
Prosecution 1st Lt. Cps. The Sup. Coy., R.C.D.S.C.
being duly sworn, states:-

The accused, Pte Byrne, whom
I now recognize, surrendered to me
in London 1830 hrs 22 Aug 47.
I placed the accused in open arrest
and brought him back to the
unit.

Accused declining to cross-examine.
R.H. MacLean.

Accused having been duly warned
in accordance with R.P. 8(a) declines
to make a statement or bring evidence.

Certified that R.P. 4 (c) (d) (e) + (g) were
complied with in the taking of this summary.

26 Aug 47.

[Signature]
Capt
officer detailed to take
of evidence.

statement of accused in accordance
with R. P. 12(B).

I wish to have an officer assigned
by the convening officer to represent me
at my trial. If possible I would
like Capt. W. S. Keffernow, 1st Co. Gp. Tro.
Sup. Coy.

G. C. H. 61663
61663, P. Co. G. Tro., C. I.
1st Co. Gp. Tro. Sup. Coy.
R. C. S. C.

Proceedings of J. S. C. M.

860663 of E. M. C. M.

held at 100. C. P. S. Sup. Coy (33 G) R. G. S. C.

28 Aug 42.

Court assembled at 10.15 A.M.

Proceeding on case, charge sheet & summons.

Defendants are said before the court.

Accused is brought before the court.

Prosecution - Capt. W. M. H. P. Jones.

Defending Officer - Capt. W. M. H. P. Jones.

Proceeding on case, charge sheet & summons.

Accused is brought before the court.

Prosecution - Capt. W. M. H. P. Jones.

Defending Officer - Capt. W. M. H. P. Jones.

Proceeding on case, charge sheet & summons.

Lieut. S. K. Lindsay, adj. 1 Cdn Coy
T/pt. Sup. Coy submitted H.F.B. 296
& H.F.B. 296 underneath.

Pls En. deats to give evidence under
oath. Sworn:

I joined Ont. R. Tank. Sept 29. I transferred
to V.R.C. Transferred to R.C.G.S.C. in 1941

Married in April 1940.

Put in for seven days' leave. Didn't get
it so I just went. Another fellow
& myself. Went to Sheffield & back
Stayed with relatives there 18 days.
Rest of the time just travelling.

The reason for the absence. The
other man was older than myself.

The escape in Oxford was his idea.

The next 18 days we were in

shutheads. The reason for escaping
from the unit we came back because
we heard Cpl. McCreesh of the
guard was in trouble.

Court closes to consider sentence:

28 Aug 42.

W. H. Shepard Major

No. B.60663 Name Eyre C.H.

Squ. Batty. } H. Q. Corps
or Company }Ontario Regt. (Tank. Date of enlistment } 10/9/39
C.I. Sup. Coy. R.C.A.S.C.

Sheet No. 2

Date of last entry in
Company Conduct Sheet }No. and date
of last drunk }G.C.
Badges }Long Service
and G.C. Pay }Signature G.C.
Company, etc. }

Place	Date of offence	Rank	Case of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Oshawa	7/11/39	Pte		Sec. 15(1) A.W.L. from 2200 hrs 7/11/39 to 0750 hrs 8/11/39.	L/Cpl Fearie L/C Ryan MM3 Smart J	3 days C.B.	8/11/39	A.L. Toland Major	Forf. 1 days pay.
Oshawa	16/5/40	Pte		Sec. 15(1) A.W.L. from 0830 hrs 16/5/40 to 2330 hrs 23/5/40 7 days 13 hrs	L/C Rodger L/C Clarke	Awarded 14 days detention	25/5/40	E. Pearson Lt./col	Forf. 8 days pay
Oshawa	29/6/40	Pte		Sec 15(1) A.W.L. from 2200 hrs 29/6/40 to 2000 hrs 30/6/40 Absent 22 hrs 1 min.	L/C Brown	7 days C.B.	1/7/40	A.L. Toland Major	Forf. 1 days pay.
Esplanade cont.	19/7/40	Pte		Sec. 15(1) A.W.L. breaking barrack at 1.05 hrs 19/7/40	Cpl Holman Cpl McCarty	168 hrs Detention	0945 hrs 25/7/40	A.L. Toland	

Army Form B.122

WL 1000 (REV. 100000) H.P. LHM 41-2000 FORM 312/4

Place	Date of offence	Rank	Case or Disc. number	Offence	Name of Witnesses	Punishment Awarded	Date of award or of such discipline with date	By whom awarded	Remarks
Camp Bordon Ont	23/8/40	Pte		A.W.L. from 0100 hrs 23/8/40 to 0325 hrs 23/8/40. 2 hrs 26 min	Documentary Sgt McNeill	7 days C.B.	1630 hrs 23/8/40	G.F.R. Fitzsimon	
Camp Bordon Ont.	23/8/40	Pte		A.W.L. from 2200 hrs 23/8/40 to 2330 hrs 10/9/40 Absent 18 days 30 mins	Cpl McGahay Sgt McNeill	12/9/40 14 days C.B. with pack drill	12/9/40	A.L. Tosland Major	19 days pay under P&A Reg. 28 days pay under Sec 4c/2/6
				S.CLS on posting to General Holding Unit Feb 2 1941	Pt 11 O.R. # 29	Feb 2 1941	G.A.WRY LT.		
				On 23-2-41 this soldier completed six months service with no further entries			GPG ROWEY LT.		
Montreal Que.	15/12/40	RFN		AWL from 0900 hrs 15/12/40 to 0900 hrs 5/1/41				Forfeits 28 days pay	
						CERTIFIED TRUE COPY			
						<i>Amundson Lieut.</i>			

Statement as to Character and Particulars of Service of Accused.

Number. B.60663 Rank. Pte. Name. RYNE G.H. Regiment (or as the case may be). Gdn C.T.SUP Coy (33 Coy) RCAD

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company 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:-

Note.—At a trial by court martial summary awards (disciplinary) may be imposed from the field and from sheet.
The conduct sheet mentioned should be produced in court with the statement and any evidence to the proceedings.

The case No. N.F. 1940

The summary award sheet should correspond with the entries in the conduct sheet, the summary being given in the first column and the court record and local regulations applied with it given in the second column.

Instruction.—If the sheet is to be made use of for the purpose of attaching a statement to be made in court and sheet.

		* Within last 12 months.		* Since Enlistment.
For	Sec. 15 (1)	0	times	6
For	Sec. 40	1	times	1
For	Sec. 10	0	times	1
For			times	times
For			times	times

Number of instances of gallantry or distinguished conduct.

There are 50 entries in the conduct sheets of the accused.

*Called B
Hester/Long*

- The accused has not been previously convicted, or ~~has been convicted of the offence by a court martial or a civil court, summary award under section 47 of the Army Act, and dispensation with trial under section 73 of the Army Act are set out in the conduct sheet of the accused.~~
- The accused is not under sentence at the present time, or ~~is under sentence of the court martial or a civil court, or is under sentence of a court martial or a civil court, or is under sentence of a court martial or a civil court.~~
- The accused has been in confinement, awaiting trial on the present charge, for NIL days in civil custody, and Six days in military custody, ~~including a total of~~ Since 2/6/42 days of which Nil days were spent in hospital.
- The present age of the accused according to his ~~attestation paper~~ attestation paper is 28 years.
- The date of his ~~attestation~~ attestation specified in his ~~attestation paper~~ attestation paper is 10 Sept 39.
- ~~The accused is entitled to deferred pay or gratuity in respect of~~
- ~~The accused is entitled to receive~~
- The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to a military decoration or military award).
- ~~The accused is a member of the~~
- ~~The accused is a member of the~~
- ~~The accused is a member of the~~

RELIEVING OPERATOR

J. J.

OPERATOR'S INITIALS

J. J.

HOUR

15.50

COUNTER NUMBER

568178

QQQ-79

PTE EYRE R

RECEIVED
10 JUL 1944
JAG

FIELD GENERAL COURT-MARTIAL

OPADD (ED 100) OF AFAS (I)
40 P & M 1944 (AG 51)
4/388

Convened by Order of Brig G S N Gostling Comd "A" Gp CRU dated 20 Jun 44

ACCUSED.

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

Number. (a) Print R. (b) Appmt, A/R or A/Appmt. Full Christian Names. Robert Surname. EYAC Unit. 6 CIRU CIC

C12262 Pte
PROCEEDINGS REVIEWED

J. Campbell
REVIEWING OFFICER, JAG BRANCH
Held in the Fd in (country) England

PROCEEDINGS OF TRIAL.

on (date(s)) 22 June 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE AND INITIALED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant forms. For guidance on procedure when a variation in the form arises, see form for GCM in MAR, pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding page number herein. See back of Convening Order, CF 494, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 101, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto. (1) The Court is satisfied that it is properly convened and constituted (2), accused is not amenable to military law, and each charge discloses an offence. (3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 47, 50, RP 105-107. 3. RP 11-13, 22, 24.)

A3. The Court is opened. The accused is not brought before the Court. At 1210 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (not) fit to undergo trial by court-martial. (1) The Prosecutor informs the Court that accused should not be tried by court-martial instead of being dealt with summarily by (the CQ, etc.)

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

A5. President is accused. Do you object to no interpreter? Ans no
The interpreter is sworn. (1) Do you object to no as shorthand writer? Ans no
The shorthand writer is sworn. (1)

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

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

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

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

President	<u>MAJOR</u>	<u>P H LAMBERT</u>	<u>6 CIRU</u>
Member	<u>Capt</u>	<u>D. ...</u>	<u>6 CIRU</u>
Member	<u>Lt</u>	<u>J.A. ...</u>	<u>6 CIRU</u>
Waiting Member	<u>Capt</u>	<u>J.A. ...</u>	<u>6 CIRU</u>
Prosecutor	<u>Lt</u>	<u>P.R. ...</u>	<u>6 CIRU</u>
Defending Offr	<u>Lt</u>	<u>J.A. ...</u>	<u>6 CIRU</u>

Questions by President: Is the Prosecutor a lawyer? Ans no. Is the Defending Offr a lawyer? Ans no. (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Com QM.)
(2. If Pres a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (2) and fn 2 were not followed. See G1 p 2.)

A8. The accused C12262 Pte EYRE, Robert. before arraignment make(s) one plea (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 42(E), 108), or as to the jurisdiction of the Court (RP 24, 25(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 14, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fn 1 to RP cited. Insert in AB name and name of the accused making the plea.)

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

(1. RP 31, 112. See para 1 of instr p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A59 to record proceedings. 2. RP 22, RP 32; if otherwise delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Notes on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

3. As to responsibility of President to accused see RP 20, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (b); duty and privilege of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 61, 82; questioning of accused see RP 80, 87(C), 92(F), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(K) fn b; and responsibility of JA or Pres to record proceedings see RP 94, 96.

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

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

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

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).⁽²⁾ If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty⁽³⁾, or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined⁽⁴⁾, we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.⁽⁵⁾

President to accused: Do you wish to make a statement? Ans. Yes ⁽¹⁾

(1. RP 27(B). 2. RP 27(D) fn 4. 3. RP 25(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per notes.)

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

(1. Court may be asked to consider the statement. Delete what is not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.⁽²⁾

(1. RP 25(B). If any plea(s) is (are) changed, see Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex 1,⁽³⁾ initialled and read aloud by the President.⁽⁴⁾

(1. If there is no Summary, or if it is inadequate, comply with RP 27(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) as are of para (c) in D8 inclusive of Record Form D on p 3. RP 27(D).)

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

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

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

(1. RP 27(A) (2).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.⁽²⁾

(1. Under B5 such courts should only of the Summary of Evidence are read as relates to the charges dealt with under C2. If any plea is changed to Not Guilty, Court should proceed by complying with para D1 in D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

*172
23 Jun 44*

The accused, No C-12262, Private Robert EYRE, of the Canadian Infantry Corps, on the strength of NO 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SECTION 15 (1)
ARMY ACT

WHILST ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the Field, did absent himself without leave from 2230 hours on the 13th day of May, 1944, until 2230 hours on the 2nd day of June, 1944.

(Total absence: 20 days)

In the Field
17 Jun 44

W.E. Morgan
.....
(W.E. MORGAN), Col
Commander
6 Cdn Inf Rft Unit

To be tried by Field General Court Martial.

G.S.M. Gostling
(G S M Gostling) Brig
Comd
"A" Gp Cdn Rft Units
CAC

Field
20 Jun 44

FIELD GENERAL COURT-MARTIAL

22 June 44
ML

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C12262	Pte		Robert	EYRE	6 CIRU CIC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person ~~(X)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence ~~(s)~~ set forth in the Charge Sheet ~~(s)~~ attached and on ~~(Date) 20 June 44~~ endorsed by me, ~~for by an offr of my staff for me~~, To be tried by Field General Court-Martial.

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

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

~~XXX I recommend to appoint as the PRESIDENT THE OFFR MENTIONED HEREUNDER. For His reasons I have attached reasons.~~
(AA 49, RP 105(B), 107(A). Delete the whole or part, if not applicable.)
~~XXX I also appoint as the PRESIDENT THE OFFR MENTIONED HEREUNDER.~~
(RP 105(E). Delete, if none appointed.)

PRESIDENT.

MAJOR	P H LAMBERT	6 CIRU
(Rank)	(Must be named. RP 106.)	(Unit.)

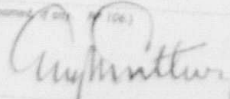
MEMBERS.

Capt	to be detailed by OC 6 CIRU	
(Rank)	(Named or detailed. RP 106.)	(Unit.)
Lt	to be detailed by OC 6 CIRU	
(Rank)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Capt	to be detailed by OC 6 CIRU	
(Rank)	(Named or detailed, if any. RP 106.)	(Unit.)

~~XXXXXXXXXXXXXXXXXXXX~~

(Rank)	(Must be named, if any. RP 106.)	(Unit.)
On Active Service in the Fd		
in England		
(Country)		
Date 20 Jun 44	 (Signed personally. RP 105 (b) 2.) (G S N Gostling) Commanding "A" Sq Cdn Rpt Units CAG Convening Officer.	Brigadier (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

Medical Officers' Certificate
K.R. (Can) para 557 *C/12262*

I certify that I have this morning examined No: Pte Eyles R
of C.I.R.U. 7005 and in my opinion he is FIT to undergo
~~UNFIT~~
trial by Court Martial.

Station

Date June 22-1944

Sgd

Pte [Signature]
(Medical Officer)

M. [Signature]
27 June 44



Records of proceedings

"Keep in touch with the folks at home"

ON ACTIVE SERVICE
with the
CANADIAN FORCES

M. J. 23 June 44

194

Pres: You R. C. 18262 C.C.F.R.V.C. 19

Pres: reads "Charge Sheet"

Sec: reads "Guilty"

Pres: Do you wish to make a statement?

Acc: Yes

Def: No sir (answered for acc)

Pres: reads Summary of charges

Pres: produces exhibits

Pres: Do you wish to make

any statements yourself?

Def: ~~Yes of independent by separate off.~~

Goldsmiths already past 2 1/2 years

in the field therefore it is safe to

conclude that at 19 years of age

this soldier saw fit to join the

army & to fight for his country

When the Supp. Bn. were recom-

stituted as M. I. Bn. a great number

of their strength was returned

to R. W. with that young came
 The Eye. Ever since that
 time he has done nothing but
 tried to get mad as if for his
 unit. Twice he had completely
 prepared himself for the field
 and both times he has returned
 the arms that he was off the
 draft. It was after the second
 disarrangement that The Eye
 went A. W. I beg you see
 to take into consideration the
 mental attitude of a man
 of the accused mentality
 after having been so disappointed.
 Mrs. closes the cover.

SUMMARY OF EVIDENCE

*Ex M
M
22 Jan 44*

In the case of No C-12262, Private Robert EYRE, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

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

First Witness C-20836, Pte STEWART W.G., Cdn Inf Corps, on the strength of No 6 CINU., having been duly sworn, states as follows:
for the Prosecution

At 2230 hrs 13 May 44, I was in charge of hut 44 No 1 Camp, 6 CINU. I call the roll and the accused, whom I now recognise, did not answer his name and was not present in the hut. I placed his name on the absentee report.

The accused declines to cross-examine this witness

W. G. Stewart
.....Pte

Second witness Lt B.P. ELIE, Cdn Inf Corps, on the strength of No 6 CINU., having been duly sworn, states as follows:
for the Prosecution

I hereby produce a certified true copy of Daily Orders Part II (6 CINU) No 133 d/5 Jan 44 purporting to be signed by the Adjutant of 6 CINU., Capt L.G.A. Relette. This document relating to the accused Pte Eyre R is attached to the Summary of Evidence and marked Exhibit "A".

The accused declines to cross-examine this witness

B.P. Elie Lt
.....Lt.

The accused is then cautioned as follows: "do you wish to make a statement of to give evidence on oath? You are not obliged to say anything or to give any evidence unless you wish to do so, but whatever you say or any evidence you may give will be taken down in writing and may be used in evidence".

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

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

J. J. [Signature]
.....Lt.
Officer detailed to take the Summary of Evidence.

In the Field
12 Jan 44

LAST ORDER
NO 132
4 Jun 44

6 CANADIAN INFANTRY REINFORCEMENT UNIT
DAILY ORDERS PART II
COLONEL W.W. MORGAN, C.B.E., M.C., OFFICER COMMANDING

THIS ORDER
NO 133
5 Jun 44

SECTION "B" OTHER RANKS

17. ABSENT WITHOUT LEAVE

17-B A.W.L. from 2230 hrs 13 May 44. Ret at 2230 hrs 2 Jun 44.

C-12262

Pte Kyre R.

(C H of O(MC))

Signed: R. Leverdure
(R. Leverdure) A/Capt
for Adjutant
6 Cdn Inf Rpt Unit

certified true copy

(L.G.A. Barette)

(L.G.A. BARETTE) Capt
Adjutant
6 Cdn Inf Rpt Unit

Et
A
[Signature]
22 June 44

Place	Date of offense	Rank	Charge of drunkenness	OFFENSE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 24	Dec 42	Pfc	AA.15(1)AWL Fr 2359 hrs 24 Dec 42 till 2150 hrs 25 Dec 42 (21 hrs, 41 min)	AA.15(1)AWL Fr 2359 hrs 24 Dec 42 till 2150 hrs 25 Dec 42 (21 hrs, 41 min)	Sgt. McMillan	4 days C.C.	25 Dec 42	Lt. Clarke	For 1 day pay for AWL
Field 25	Mar 43	Pfc	AA.15(1)AWL 7 hrs 45 mi	AA.15(1)AWL 7 hrs 45 mi		admonished	30 Mar 43	L/col. Klachn	For 1 day pay for AWL
Field 3	Jul 43	Pfc	AA.15(1)AWL 2359 hrs 3 Jul 43 till 2230 hrs 4 Jul 43 (23 hrs, 31 mi)	AA.15(1)AWL 2359 hrs 3 Jul 43 till 2230 hrs 4 Jul 43 (23 hrs, 31 mi)	Sgt. Stymest	admonished	5 Jul 43	L/col. Klachn	For 1 day pay for AWL
Field 27	Jul 43	Pfc	AA.40 Conduct to the prejudice of good order and military discipline (kit improperly laid down)	AA.40 Conduct to the prejudice of good order and military discipline (kit improperly laid down)		3 days C.C.	27 Jul 43	Cpt. McPherson	For AWL
Field 13	sep 43	Pfc	AA.15(1)AWL Fr 1110 to 1200 hrs 13 sep 43 (45 mi)	AA.15(1)AWL Fr 1110 to 1200 hrs 13 sep 43 (45 mi)	Sgt. Dorman	5 days C.C.	14 sep 43	Cpt. McPherson	
Field 24	Dec 43	Pfc	AA.15(1)AWL Fr church parade	AA.15(1)AWL Fr church parade	Sgt. Redard	7 days C.C.	27 Dec 43	Cpt. McPherson	
Field 11	Feb 44	Spl	AA.40 Conduct to the prejudice of good order and military discipline (uniformly dressed)	AA.40 Conduct to the prejudice of good order and military discipline (uniformly dressed)		Reprimand	13 Feb 44	Maj. Bryner	
certified true copy dated				2 JUN 1944					officer having custody of original documents

Statement as to Character and Particulars of Service of Accused.

EX 10
M
23 Jan 41

Number C-18262 Rank Private Name Robert Trow Regiment (or as the case may be) Canadian Infantry Corps.

1. The following is a fair and true summary of the entries in the regimental and squadron battery 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 Army Act, and of cases in which trial has been dispensed with:—

Note.—As a condition precedent to the issue of this form, the conduct sheet should be produced in court with the statement and not returned in the proceedings.

The conduct sheet mentioned should be produced in court with the statement and not returned in the proceedings.

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The conduct sheet mentioned should be produced in court with the statement and not returned in the proceedings.

	* Within last 12 months.	* Since Enlistment.
For <u>1. 1. 19 (1) 1941</u>	7 times	10 times
For <u>1. 1. 40</u>	3 times	8 times
For <u>1. 1. 31 (1)</u>	11 times	1 times
For _____	times	times
For _____	times	times

Number of instances of gallantry or distinguished conduct, Nil

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

2. The accused has not been previously convicted, or

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

3. The accused is not under sentence at the present time. Nil The accused at the present time is under sentence for _____ days.

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, of which Nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 30 years 018.

6. The date of his attestation specified in his attestation paper is 11 SEP 41.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs 338 days.

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs 338 days service.

9. The accused is entitled to reckon 2 yrs 338 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, Nil military decorations or military awards for or in possession of _____

11. Nil The accused is a married man. The accused before he was made a soldier, either has had one or more _____

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

22 Jun 1944

Officers under instructions
Lieut. A. Cyr
Lieut. M. de Huel

M.
22 Jun 44

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken prior to my trial by Court-Martial. I further acknowledge that I have been served with a true copy of the charge (s) upon which I am being brought to trial by CM.

2. I desire the services of an officer to represent me at my trial by CM. I request the services of:
..... Lt Watson, Cdn Inf Corps, No 6 CIBU.

if he is available.

In the Field
17th day of June 1944.
1130 hrs

R. E. ...
.....
C-12262 Pte Myre R
CE, No 6 Cdn Inf Bt Unit.

*Mc
24
Sam W*

LIST OF EXHIBITS

In the case of No C-12262, Private Robert EYRE, of the Canadian Infantry Corps,
on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the
Canadian Army Overseas.

Exhibit "A": Copy of Daily Part II orders (6 CIRU)

In the Field
17 Jun 44

*M
22 Jun 44*

LIST OF WITNESSES

In the case of No C-12262, Private Robert EYRE, of the Canadian Infantry Corps,
on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the
Canadian Army Overseas.

Prosecution

C-20836, Pte Stewart W.G., Cdn Inf Corps, on the strength of No 6 CIRU.

Lt B.P. Elie, Cdn Inf Corps, on the strength of No 6 CIRU.

Defence

Nil

In the Field
17 Jun 44

M. J. [unclear]
28 Jun 44

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

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

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

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

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

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

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

D4. The Prosecution is closed.⁽¹⁾ The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).⁽²⁾ The Court is closed, and considers the submission.⁽³⁾ The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).⁽⁴⁾

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MAN, p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges see second alternative in para D6.)

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans.....

Are they witnesses as to character only? Ans.....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.)

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

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CR 895. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(a).)

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

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be pronounced later.⁽¹⁾ Or, The President announces that the accused is found Not Guilty on all charges and it is to be pronounced forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.⁽²⁾

(1. AA 54(7) (b), RP 43, 120(A). 2. AA 54(7), RP 43, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form E or C.)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

Ans NO
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

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

(1. MFB 251 or AF 294. 2. MFM 5. 3. RP 44, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

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

(1. RP 37(C), 46(C). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything (true or untrue) stated which would affect the amount of punishment. RP 37(D) fn 1.)

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

(1. AA 146; RP 120(A).)

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

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and 45, is to be awarded to cover all charges to which accused found guilty. RP 46. As to sentences see AA 44, 128, 182, RP 46-50, 89, 118, 119(A), RP Can 528, 532, 542-544, Criminals RO 309, 2223, MFM p 60, 757-759. As to sentences assigned for civil offences by the use of England see AA 41(5), MAN, p 130. When accused already under sentence of imprisonment or detention see AA 44 (B), 48(1), KR Can 564. 2. RP 50. As to release from arrest by Convening Offr see KR Can 567. As to assembly and disposal of record after trial see notes on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused: C12262 Pte Robert, EYRE. 6 CIRU - CIC.

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

(Note: As to findings for lesser offences see AA 56, RP 44; Findings on alternative charges see MML p 4B3 in 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in case of kit see RP 44 in 6.)

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

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF 8355 or AF 8276.)

Time in confinement awaiting present trial—a total of 19 days, of which 12 days were spent in hospital. (2)

(1. See RP 46(A) in 2. Information should be found on MF 8355 or AF 8276 admitted in evidence under E2.)

Sentence Awarded by the Court:

18 Months detention detention

(Sgd) _____
Judge Advocate, if any—

23 Jun 44
Date awarded

(Sgd) P. A. Lambert
President (RP 43, 50)

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

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

Date _____ (Sgd) _____ Commanding

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

(For duties and powers see AA 54, 57, RP 37(D) in 4-46(A), 51-56, 72C, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(1), RP 120(G). If not confirmed, accused may be tried again: AA 57, MML p 84. Minutes of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 85. Quashing after promulgation: KR Can 573. Duties and powers of reviewing Offs: AA 54, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 in 1.)

My decision on the finding(s) and sentence set forth in Part I is:
 I confirm the finding & sentence of the Court but mitigate the sentence
 to "12 months detention" and I confirm the sentence as mitigated.

I direct that the accused be not committed to prison or detention _____ (1)

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

Date 23 Jun 44

(Sgd) G. S. N. Gostling
 Commanding "A" Gp Cdn Rft Units C & (C)
 Confirming Officer.

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

Accused _____ Date _____ Signature of Offr _____

C12262 Pte Robert Eyre
6 CIRU - CIC

JUN 26 1944

L. H. Barrett

ADJT. & CDN. INF. RPT. UNIT

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

9. I Pl. Eyraud. I -

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

PROCEEDINGS.

On Active Service, this 5th day of August, 1941.

A.
Order convening the Court

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

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

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

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

* Omit if not applicable.

- *1. [Redacted Name]
- *2. [Redacted Name]
- *3. [Redacted Name]

*Proceedings returned
Major Capt
Raymond Apper, (No. 5) Day*

Rank	Name	Regiment
Major	R.S. Hallett	No. 1 Cdn Arty Hldg Unit
Members.		
Captain	C.A. Dodson	No. 2 Cdn Arty Hldg Unit
Lieutenant	P.W. Chipswick	No. 2 Cdn Arty Hldg Unit
Lieutenant	H.S. Daykin	No. 1 Cdn Arty Hldg Unit

*Signed: [Signature] Brigadier

Commanding Cdn Base Units, Cdn Army.
Convening Officer.

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

2

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A-3784 PTE. EXEARD, J.H. Cdn Training School.	<u>First Charge</u> A.A. sec 15(1) <u>Second Charge</u> A.A. sec 24(2) See charge sheet attached.	GUILTY GUILTY	GUILTY GUILTY	<i>Confined to Cdn Army</i> <i>1000</i>
			TO UNDERGO DETENTION FOR A PERIOD OF NINETY DAYS AND TO BE PUT UNDER STOPPAGES OF PAY UNTIL HE HAS MADE GOOD THE SUM OF £5-7-3 IN RESPECT OF LOST KIT AND EQUIPMENT; ALSO, TO UNDERGO STOPPAGES OF PAY UNTIL HE HAS MADE GOOD THE SUM OF £3-19-8 IN RESPECT OF COSTS OF APPREHENSION.	

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

(Signed) *[Signature]* Brigadier (Signed) *R. St. Halliday*
Commanding Cdn Base Units, Cdn Army. *3rd Bty # 1. C.A.M.U.* President

- (a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialed by him.

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

3

I certify that the above Court assembled on the 6th day of August, 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

B.
Certificate of President as to proceedings.

I also certify that :-

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

* Omit if not applicable.

were duly sworn.

Signed this 6th day of August 1941.

R. St. Halliday
President of the Court Martial.

* See footnote (b) on page 204 M.M.L. 1939.

I certify that the terms of ~~1 A.C.I. 578 of 1938~~ have been complied with.

C.

Certificate in case of death sentence.

Signed this _____ day of _____ 19 _____

President of the Court Martial

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

D.

Confirmation

* I direct that the soldier named in the margin be not committed to prison until further orders.

Signed this 12th day of August 1941.

[Signature] Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of A.3784 - Pte. EXEARD, J.H.

(a) (Dated) 13 Aug 41 (Signed) *[Signature]*

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

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

C H A R G E S H E E T

The accused, A.3784 - Pte. EZEARD, Joseph, Hugh, Royal Canadian Regiment, attached to the Canadian Training School, a soldier of the Canadian Army (Overseas) is charged with, when on active service.

Absenting himself without leave

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

in that he

at Borden, Hants., on the 20 June, 1941, at 1200 hrs., absented himself from his unit, failing to report back from Privilege Leave, such Privilege Leave ceasing at that time and on that date and remained so absent until apprehended by Cpl. Peden, J.C., C.M. Police and L/Cpl. Wilson, J.W., C.M. Police in the Dundee Road, Perth, Scotland, at about 1145 hours on 23 July 1941, thereby incurring expenses for transportation and escorts expenses to the amount of three pound nineteen shilling and eight pence (£3.19.8).

Second Charge
A.A. Sec. 24 (2)

Losing by neglect certain items of his equipment, clothing, regimental necessaries to the total value of five pound, seven shilling and three pence (£5.7.3.)

in that he

on the 29 July, 1941 was unable to produce the following articles valued as shown:-

Article	Quantity	Price			Total		
		£	s	d	£	s	d
Battle Dress, Trousers	1	1	0	6	1	0	6
Boots, ankle, prs.	1	1	2	6	1	2	6
Braces, prs.	1	2	1	2	2	1	2
Brushes, button	1	1	2	2	1	2	2
Brushes, boot polishing	1	2	2	3	1	2	3
" button	1	1	1	2	1	1	2
" cloth	1	1	1	11	2	1	11
Caps, comforter	1	2	10	10	2	10	10
Comb, hair	1	1	10	10	1	10	10
Gloves, woollen	1	1	11	11	1	11	11
Knife, clasp and lanyard	2	2	6	12	2	6	12
Knife, table	1	1	11	11	1	11	11
Socks, prs.	1	2	1	2	2	1	3
Brushes, hair	1	2	2	4	2	2	4
Vests, cotton, gym	2						
Shorts, "							
Drawers, cellular, short							

R. H. [Signature]

Frogs, bayonet
Tins, mess
Bayonet, scabbard
Sheets, ground
Capes, A/G

1
1
1
1
1

2
8
10
13


11
8
8
10
13

ES 7 3



(C.W. Lewis) Lt. Col., L.S.H., (RC);
Commandant, Canadian Training School.

To be tried by Field General Court Martial



(F.R. Phalen) Brigadier
Commanding Cdn Base Units.

Borden, Hants
This 5th day of Aug 41.



A-3734, Pte. Ezeard, J.H., Canadian Training School, tried by Field General Court-Martial at Borden, Hants., on the 6th day of August, 1941.

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

Prosecutor - Capt. E.C. Peckham
Defending Officer - Lieut. J. Payner

At 1000 hours the Trial commences.

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

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

A1 - No, sir.

The President and members are duly sworn.

Q2 - Do you object to M-15577 B/Sgt. Stanley Fidler, The Edmonton Regiment, H.Q., C.R.U., acting as Court Stenographer?

A2 - No, sir.

The Court Stenographer is duly sworn.

The charge-sheet is signed by the President and annexed to the proceedings.

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

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

A3 - Guilty, sir.

Q4 - Are you guilty or not guilty of the second charge against you, which you have heard read?

A4 - Guilty, sir.

R.P. 35(B) is complied with by the Court.

Q5 - Do you wish to make any statement in mitigation of punishment?

A5 - No, sir.

Q6 - Do you wish to give evidence yourself or to call any witnesses as to character?

A6 - No, sir.

Capt. E.C. Peckham, Canadian Training School, is duly sworn.

Q7 - Have you any evidence to produce as to the character and particulars of service of the accused?

A7 - Yes, sir, A.F.B. 296 and M.P.N. 6.

Q8 - Is the accused the person named in the statement which you have heard read?

A8 - Yes, sir.

Q9 - Have you compared the contents of the above statement with the regimental books?

A9 - Yes, sir.

Q10 - 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?

A10 - Yes, sir.

The accused declines to cross-examine.

Q11 - Do you wish to address the Court?

A11 - (Defending Officer) His character, as far as I know, has been beyond reproach until this recent escapade. To the best of my knowledge his conduct has been quite good and I would ask that this fact be considered by the Court.

The Court is closed for the consideration of the sentence.

R.S.H.

MEDICAL OFFICER'S CERTIFICATE.

I certify that No. A.3784 - Pte. Ezeard, J. H., Canadian
Training School, is fit to undergo trial by Court-Martial.

Examined Aug 6/41.

R. C. Spencer MAJOR R.C.A.M.C.
Signature of Medical Officer

Borden, Hants.
6 Aug. 1941.

RCH

SUMMARY OF EVIDENCE

In the Case of No. A.3784 - Pte. Ezeard, J.H.
taken before Lieut. W.A. Murray, Canadian
Training School. Taken under oath by order of
the Commanding Officer.

1st Witness

D.76784 A/Sgt. Munault, A. having been sworn states:-
Sir:-

I am the Sergeant of the Officers' Mess, Canadian Training
School. On June 13th Pte. Ezeard, J.H. proceeded on his privilege
leave. He was supposed to report back at twelve hundred hours
June 20th; He failed to report back at such time, I reported the
fact to Major Buell, the Mess President. This was duly published
in Daily Orders Part II of this Unit.

A. Munault
(Munault, A.) A/Sgt.

The accused declines to question the witness

2nd witness

E.17085 C.Q.M.S. Stewart, R.L. having been sworn states:-
The day after the absence of A.3784 Pte. Ezeard, J.H. was reported
I went to the Officers' Mess and checked his kit in the room where
he lived. Later I was ordered to compile a list of these deficiencies
and they amounted to the sum of £25/0/0. On the 29th July after
Pte. Ezeard's return I was ordered to check again and compiled this
fresh list of deficiencies (Exhibit A) amounting to the sum of £5/7/3.
Here are certified true copies of this second list of deficiencies.

R.L. Stewart
(Stewart, R.L.) C.Q.M.S.

The accused declines to question the witness.

DOCUMENTARY EVIDENCE - as listed below

- Exhibit "A" Certified copy of deficiencies of kit mentioned in
evidence by C.Q.M.S. Stewart, R.L.
- Exhibit "B" Army Form B.252. Charge with evidence of Cpl. Pedden, J
Wais, C.M.F., Perth, Scotland and corroboration by L/Cpl. Wilson,
Wais, M. C.M.F., Perth, Scotland. Also signature of P.C. Christie,
Perth City Police.
- Exhibit "C" Receipt for Pte. Ezeard, J.H. stating he was sober by
P.C. Christie.
- Exhibit "D" Covering letter re AFM 252 for A.5698 Pte. George, E. and
Pte. Ezeard, J.H. from D.A.F.S. South Highland Area.
- Exhibit "E" Expense account for secret and journey from Perth to
amounting to £3/19/8.

R.L.

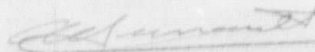
SUMMARY OF EVIDENCE

In the Case of No. A.3784 - Pte. Ezeard, J.H.
taken before Lieut. W.A. Murray, Canadian
Training School. Taken under oath by order of
the Commanding Officer.

1st Witness

D.76784 A/Sgt. Bunnault, A. having been sworn states:-

Sir:- I am the Sergeant of the Officers' Mess, Canadian Training School. On June 13th Pte. Ezeard, J.H. proceeded on his privilege leave. He was supposed to report back at twelve hundred hours June 20th; He failed to report back at such time, I reported the fact to Major Buell, the Mess President. This was duly published in Daily Orders Part II of this Unit.

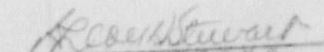

(Bunnault, A.) A/Sgt.

The accused declines to question the Witness

End Witness

E.17028 C.Q.M.S. Stewart, R.L. having been sworn states:-

The day after the absence of A.3784 Pte. Ezeard, J.H. was reported I went to the Officers' Mess and checked his kit in the room where he lived. Later I was ordered to compile a list of these deficiencies and they amounted to the sum of £25/6/8. On the 29th July after Pte. Ezeard's return I was ordered to check again and compiled this fresh list of deficiencies (Exhibit A) amounting to the sum of £25/7/8. Here are certified true copies of this second list of deficiencies.


(Stewart, R.L.) C.Q.M.S.

The accused declines to question the Witness.

DOCUMENTARY EVIDENCE - as listed below was read by accused

Exhibit "A"
Certified copy of deficiencies of kit mentioned in evidence by C.Q.M.S. Stewart, R.L.

Exhibit "B"
Army Form B.282. Charge with evidence of Cpl. Peden, J. Craig, C.M.F., Perth, Scotland and corroboration by L/Cpl. Wilson, James, W. C.M.F., Perth, Scotland. Also signature of P.C. Christie, Perth City Police.

Exhibit "C"
Receipt for Pte. Ezeard, J.H. stating he was sober by P.C. Christie.

Exhibit "D"
Covering letter re AFP 282 for A.5698 Pte. George, B. and A.3784 Pte. Ezeard, J.H. from D.A.F.S. South Highland Area.

Exhibit "E"
Expense account for escort and journey from Perth to Bordon amounting to £3/19/8.



The accused after being cautioned in accordance with R.P. 4 (E) declines to make a statement.

Taken down by me at Havannah Barracks, Borden, Hants., this thirtieth day of July, 1941 in the presence of the accused. Rule of Procedure 4 complied with.

W.A. Murray

(W.A. Murray) Lieut.,
Canadian Training School.

R.S.H.

STATEMENT OF EVIDENCE IN THE CASE OF

No. A3784
PTE EZCARD, J. H.
CANADIAN TRAINING SCHOOL,
BOADON,
HANTS.

Sir, at PERTH, on 23rd July, 1941, at about 11.45 hrs. I was on duty in the DUNDEE ROAD where I saw the a/m soldier. On asking him to produce his pass, he informed me that he did not have one and that he was absent.

I apprehended him and conducted him to the CIVIL POLICE, BILBUSTS where I obtained his particulars, later taking him to the CIVIL POLICE STATION where I handed him over to the OFFICER in charge to be detained.

PertH
24/7/41

J. Craig Sedley, Sgt
C. T. POLICE.

REMARKS

Sir, I have read over and
considered the above statement

PertH
24/7/41

James W. Wilson, C. Sgt.
C. T. POLICE

Exhibit B

CHARGE

Army Form B 252

(See King's Regulations)

CANADIAN TRAINING SCHOOL Regiment

Battery

Squadron

Troop or

Company

CHARGE against No. A3784 Rank Prs.

Name EZEMAD, J.H. 10.6.41

Place BORDON Date of Offence ?

OFFENCE Whilst on British Service

absent from 21st Dec 40 until apprehended

by the MILITARY POLICE, in the

DUNDEE ROAD, PERTH, at about 11.45 hrs.

23rd July, 1941.

total time 12 days 20 hrs 45 mins.

Names of Witnesses

Cpl J. CARIC PEDER C.M. PERCE

1/Cpl J. W. WILSON C.M. PERCE

P.C. CHRISTIE PERTH CITY POLICE

Squadron, Troop or Company Stewart Robertson

Punishment Remanded to C.O. 29/7/41 major

Awarded

By whom

Awarded

[Signature]

Adj. CAPT.,

CANADIAN TRAINING SCHOOL

Borden Camp,
1 Aug. 41.

List of witnesses in the case of No. A 3784, Pte. Ezeard, Joseph, Hugh,
R.C.R.

No. D 76764 A/Sgt. Hunsalt, A. R.M.R./C.T.S.

No. E 17025 C.Q.M.S. Stewart, R.L., R.C.O.C./C.T.S.

The two witnesses above are available at Borden Camp.

Corporal Peden, J.C., C.M.P. -- Perth, Scotland (evidence
documentary)

L/Cpl. Wilson, J.W., C.M.P. -- Perth, Scotland (evidence
documentary)

P.C. Christie, Perth City Police, (evidence documentary)

The three witnesses immediately above are not at present available at
Borden Camp.

RSH

10/11

LIST OF EXHIBITS

Exhibit "A" Certified copy of deficiencies of kit mentioned in evidence by G.D.M.S. Stewart, R.T.

Exhibit "B" Army Form B.252. Charge with evidence of Cpl. Peden, J. Grant, G.M.F., Perth, Scotland and cooperation by I/Opl. Wilson, James, M.C.N.F., Perth, Scotland, also signature of P.C. Christie, Perth City Police.

Exhibit "C" Receipt for pte. Stewart, J.H. stating he was seen by P.C. Christie.

Exhibit "D" Covering letter re A23 268 for A.2698 pte. George, B. and V.2724 pte. Stewart, J.H. from D.V.F.K. South Highland Area.

Exhibit "E" Expense account for escort and journey from Perth to Borden amounting to £3/13/8.

Exhibit "F" Army Form B 119

STATEMENT MADE BY A.3784 - Pte. ~~WZ~~YARD, Joseph, Hugh, The
Royal Canadian Regiment, Attached Canadian Training School,
Canadian Army (Overseas).

"I know that as a soldier, I am responsible for all arms, equipment and clothing on my charge, and should be able to produce the same at any time."

"I have tried to fulfil my duties as a soldier to the best of my ability, until recently, I received some rather disturbing news about my domestic affairs at home in Canada. As a result of such news I became indiscreet and took liberty with my privilege leave by over-staying such leave."

"I did not try to evade apprehension by the military police in any way whatsoever."

"Regarding the loss of my kit, I suppose it is my misfortune to loose it that way. I had been sharing a room with two other men who are employed in the Officers' Mess. This part of the building is out of bounds to other ranks and used entirely by the kitchen staff of the Mess. This being the case, I believed my kit being reasonably safe, as it was the practice of the other members of the kitchen staff to leave their kits behind when proceeding on leave."

Joseph Hugh Eyard Pte.
Joseph Hugh Eyard

Barracks,
Borden, Ont.,
6 Aug. 1941.

P. 111.

Subject:- A.F.B. 252

Exhibit D

Ref D.A.P.M. 58/41

Officer Commanding,
Canadian Training School,
Bordon,
Hants.

Herewith A.F.B. 252 in respect of No's.
A. 5698 Pte. George.B.
A. 3764 Pte. Ezeard, J.H.
of your unit.

Forwarded for your information and action.

Queen's Hotel,
Perth,
25.7.41

W. Stewart Maj

D.A.P.M. South Highland Area.



W.S.

Receipt: Taken Over:- Exhibit C

No. A. 3-184 Rank. 475.....

Name: EZEARD, J. H.

Det. CANADIAN TRAINING SCHOOL.....

Board of Det. HANTS.....

Taken over above at about 1830 hrs

on the 22nd of July 1942

He was SOBER.....

Place: PERTH Signed: J. Christie

Reg. No. P.C. No. 18

RCM

CHARGE

Army Form B 252

See Army Regulations

CANADIAN TRAINING SCHOOL

Regiment
Battery
Squadron
Troop or
Company

CHARGE against No. A. 3784

Rank Pte.

Name EZEARD, J.H.

Place BORDON

Date of Offence 20/6/41

OFFENCE W.O.A.S.- Absent from 1200 hrs,
20 June 41 until apprehended by the Military
Police in the Dundee Road, Perth, at about
1145 hrs. 23rd July 1941

Total Absent - 32 days 23 hrs, 45 mins.

Names of Witnesses

Cpl. J. Craig Peden C.M. Police
L/Cpl. J.W. Wilson C.M. Police
P.C. Christie, Perth City Police

Signature of O.C. Battery,
Squadron, Troop or CompanyPunishment
AwardedBy whom
Awarded

Signed G.A. Stewart, Capt.
D.A. Davidson, Lt. Col.
Attn. P.T.O.

Statement of EVIDENCE in the case of

No. A.3784
Pte. Ezeard, J.H.
Canadian Training School
Borden, Hants.

Sir:

At Perth on the 23 July 1941, at about 1145 hrs I was on duty in the Dundee Road, where I saw the a/w soldier. On asking him to produce his pass, he informed me that he did not have one and that he was absent.

I apprehended him and conducted him to the C.M. Police, Billets where I obtained his particulars, later taking him to the Civil Police Station where I handed him over to the Officer i/c to be detained.

Signed J. Craig Feden, ~~Subj. A. 3784~~
C.M. Police

Perth
24/7/41

REMARKS

Sir:

I have read over and corroborate the above statement.

Signed James W Wilson L/Cpl
Perth, 24/7/41 C.M. Police

NOTE:
 No reimbursement for this account is to be sent to our office from your headquarters, as the amount has been paid from petty cash and awarded to British Guards.
 If the account is found faulty a stoppage of pay should be put through your units part 11 orders.

CANADIAN PROVOST CORPS
 O.C. CAN. G. COMMAND

M. E. Blythe
 CAPT.

I certify that the above statement of expenses is correct and that the amount is true and just.

TOTAL -- £ 3 10 0

AMOUNT	PARTICULARS	DATE
1 14 0	Prisoners single fare to London from " "	1 14 0
1 14 0	Prisoners single fare from London to " "	1 14 0
10 0 0	Expenses for food, meals, bus fares and meals for the prisoners.	

The following expenses were incurred in apprehending and returning the s/u soldier to his unit from " ".

Regt. No: A-2784
 Rank: Pte.
 Name: Bregard, F.H.
 Regt: B.C.B.
 Unit: Attd. Cdn. Training School.



Ref: K.R. & O. (Can. 1539)

E 66

Exhibit E

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

RECORD of the Declaration of a Court of Inquiry assembled at ^{Havannah Bks} ~~Borden, Hants.~~
 on the 18th day of July 19 41, for the purpose of investigating
 and recording the absence, without leave, from his duty, and deficiency, if any, in the
 Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of
 No. A.3784, Pte. Ezeard, J.H. (R.C.R.)
 B.31325, Spr. Ferrin, C. (R.C.E.)

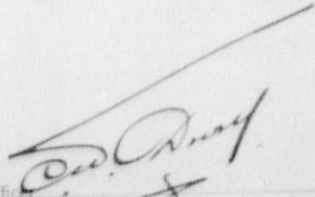
DECLARATION.

The Court declare.

The court having heard and received the evidence declare that
 Pte. Ezeard, J.H. the R.C.R., illegally absented himself from Havannah
 Bks, Borden, Hants., at 1200 hrs on the 20th June 41; that
 he is still so absent, and that on the 21st day of June 1941 that
 he was and still is deficient kit to the value of £25-8-5,
 also that B.31325, Spr. Ferrin, C. of the R.C.E. illegally absented
 himself from Havannah Bks., Borden, Hants., at 1200 hrs on the 22nd
 day of June, 1941; that he is still so absent and that on the 23rd
 day of June 1941, that he was and still is deficient kit to the
 extent of £20-12-7

Names of President and Members

Signature of Commanding Officer



(C. S. Devey) Lt. Col., I.S.H.
 Capt., Cdn. Trng. School. (RC)

CERTIFIED TRUE COPY

W.A. Murray
 Signature of Officer having custody of the
 Original Record.

(W.A. Murray) Lieut.

6. ATTACHMENTS cont'd.

(a)

B-83876 Cadet (S/Sgt.) CHRISTIE, J.G. (R.C.A.S.C.)
 B-91367 Cadet (Sgt) BORNIE, J.J. (R.C.A.S.C.)
 C-11542 Cadet (Sgt.) ORME, J.L. (R.C.A.S.C.)

No. 1 General Holding Unit

D-76832 Cadet (C/M) CAMPBELL, H.S. (R.N.R.)
 B-89735 Cadet (C/M) JARDINE, I.S. (R.C.A.M.C.)
 W-24804 Cadet (Sgt.) WHISKEY, J.T. (R.C.A.M.C.)
 W-24074 Cadet (Sgt.) COLLARD W.W. (R.C.A.M.C.)

No. 1 Engrs. Holding Unit

W-3613 Cadet (1/Cpl.) RAMO, T.P. (R.C.E.)
 C-23741 Cadet (Sgt.) CHAMPAGNE, M.E. (R.C.E.)

(d) The following Officers are attached to this Unit for a/p while attending CMBI Course # 744, Ser. 4., (2 Tech. Wing) D.S.M. School, w.e.f. 16 June 41.

Major J.M. LANG	(R.N.R.)
Major W.S. MACKENZIE	(C.C.C. of C.)
Major T.F. HAZARD	(3rd Army Sq. Art.)
Major S.D. CAMPBELL	(1 R.N.R.)
Major F.H. WILLIAMS	(Essex Sects.)
Major F.P. WEST	(R.N.R.)
Major A.L. McINNIS	(R.C.A./Snd A/Tk. Regt.)
Capt. J.R. PEPALL	(R.C.A./3rd Lt. A.S.)
Capt. R.A. ROBERTSON	(Top. Sects. Regt.)
Capt. T.S. DONALD	(Calc. Signrs.)
Capt. H. PALMER	(R.C.A./1 Lt. A.S. Regt.)
Capt. L.S. TALLEY	(R. No. 100th/10th 5 Inf.)
Capt. J.E. KENNEDY	(R.C.A./1 Lt. A.S.)
Capt. C.E. WITCHETT	(R.N.R.)
Capt. D.A. KELLONEN	(R.C.C.C./1 Corps Sign.)
Capt. J.J. MATTWELL	(R.C.A./2 Lt. A.S. Regt.)
Lieut. W.C.R. BURGENT	(R.C.A.S.C./1 Mx. Petrol)

7. HOSPITAL

(a) E-15005 Cadet (Sgt) BARKMAN, R.C.G. (R.C.A.)
 admitted to Royal Victoria Hospital, Banta, w.e.f. 11 June 41.

(b) L-2254 S/Sgt. CAMPBELL, T.W. (R.C.A./3 CMBI.)
 admitted to 31 Neurological Hosp. w.e.f. 15 June 41.

(c) B-36555 Cadet (Sgt) WOODROW, F.J.L. (R.F.I.L./1 CMBI.)
 admitted to Can. Medical Centre, w.e.f. 15 June 41.

W.C. Beckham, Capt., The C. of C. Regt.,
 Adj., Canadian Training School.

R. J. H.

6. ATTACHMENTS cont'd.

(a)

No. 1 Cdn. Army Service Corps Hold. Unit.
 P-27807 CSM MARTIN, B.A. (R.C.A.S.C.)
 U-1596 Cpl. DANIELS, J. (R.C.A.S.C.)

No. 1 Cdn. Sigs. Hold. Unit
 B-88941 A/Cpl. BARROWMAN, S.E. (R.C.C.S.)
 M-2104 Bdr. SUIRES, E.V. (R.C.A.)
 B-88033 Cpl. VOLLIICK, H. (48th H. of C.)

No. 1 Cdn. Gen. Hold. Unit.
 B-93774 Sgt. COMERY, P.N. (R.C.A.M.C.)
 B-74173 L/Cpl. HAM, G.F. (48th H. of C.)

(b) The following Officers cease to be attached to this Unit for a/p on completion of CMHQ Course 744, Ser. 2, (2/2 Tech. Wing) D.1 M. School, w.s.f. 14 June 51.

Major R.W.K. ABELHAM	(R.A.F.E.)
Major E.W.H. BERVICK	(3 Cdn. Recce. Bn.)
Major R. BELANGER	(R. de Mais.)
Major R.C. CLARKE	(R.C.R.)
Major F.B. COURNEY	(W.H.S.R.)
Major D.M. CAMPBELL	(R.M.R.-M.G.)
Major A.L. FORTEY	(C.H. of C.-M.G./1 Bn.)
Major E.G. JOHNSON	(Tor. Sects. Regt.-M.G.)
Major J.C. JEFFERSON	(29th Idem. Regt.)
Major K.B. JENCKES	(1 Lt.A.A.-R.C.A.)
Major B.B. KING	(48th H. of C.)
Major G.E. LOCKWOOD	(Calc. Highrs.)
Major H.K. MURRAY	(2 Cdn. A/Tk. Regt. R.C.A.)
Major C.C. ORME	(5. Bask. Regt.)
Major E.H. SMITH	(6 Cdn. Pd. Regt. R.C.A.)
Major W.H. LEDGATE	(3rd. R.C.A./19th Pd.)
Major S.A. STANKE	(P.F.C.L.I.)
Major C.H. WOODROW	(3 Lt.A.A.-R.C.A.)
Major A.D. WATERSON	(C.A.T.)
Major S.B. WALKER	(1 Med. R.C.A.)
Capt. R.A. ADAMS	(R.H.L.I.)
Capt. D.M. CLARKE	(S.H. of C.)
Capt. C.H. BELLAVANCE	(R. 126 Regt.)
Capt. E.R. MARRIOTT	(11th Pd. R.C.A.)
Capt. B.T. McFARLANE	(Cameron of Can.)
Capt. C.L. SMITH	(Calc. Highrs./3 CMHQ)
Lieut. W.R. JARDINE	(R.C.C.S.)
Lieut. K.A. CALDER	(1 Lt.A.A.-R.C.A.)
Lieut. S.K. ALSOP	(1 R.C.C.S.)
Lieut. E.R. SHEPPARD	(Essex Scots.)

(c) The following cease to be attached to this Unit for w/p from Units shown on proceeding to 201 R.A.S.C., C.C.T.U. w.s.f. 14 June 51. (Auth: War Office letter 100/Canda/8480 (A.S.I. E.) d/9 May 51. CMHQ letters 2/OCTU/4(ME) d/12 and 19 May 51.)

No. 1 Army Service Corps Holding Unit.

P-27817	Cadet (A/MSM) ROWTON, J.F.	(R.C.A.S.C.)
A-9457	Cadet (S/Sgt.) CARTER, M.G.	(R.C.A.S.C.)
P-89807	Cadet (Sgt.) COOPER, W.J.	(R.C.A.S.C.)
C-11714	Cadet (OSM) JAMES, A.T.	(R.C.A.S.C.)
B-86485	Cadet (Sgt.) MacGREGOR, D.A.	(R.C.A.S.C.)
B-82051	Cadet (S/Sgt.) PERCE, C.A.	(R.C.A.S.C.)
A-9145	Cadet (Sgt.) FITCHETT, L.A.	(R.C.A.S.C.)
L-7607	Cadet (L/Cpl.) GIVERAGO, S.A.	(R.C.A.S.C.)
L-7104	Cadet (Sgt.) BATES, R.E.	(R.C.A.S.C.)
L-7618	Cadet (L/Cpl.) DOUGLAS, B.G.	(R.C.A.S.C.)
A-29113	Cadet (Sgt.) SHIPLEY, F.M.	(R.C.C.C.)
B-21161	Cadet (Sgt.) SMYTHALL, J.M.	(R.C.A.S.C.)
P-28097	Cadet (A/Sgt.) JONES, A.M.	(R.C.A.S.C.)
B-83782	Cadet (Sgt.) FULLER, G.R.	(R.C.A.S.C.)

3. LEAVE cont'd.

- (e) A-3784 Pte. EZEARD, J.H. (R.C.R.)
Granted PRIVILEGE LEAVE from 1200 hrs. 13 June 41. to 1200 hrs.
20 June 41. with free warrant.
- (f) B-31325 Spr. FERRIN, C. (R.C.E./1 Engrs. H.U.)
Granted PRIVILEGE LEAVE from 1200 hrs. 13 June 41. to 1200 hrs.
22 June 41. with free warrant.
- (g) E-4784 Pte. WAGAR, R.L. (H. & P.E.)
Granted PRIVILEGE LEAVE from 1200 hrs. 16 June 41. to 1200 hrs.
23 June 41. with free warrant.
- (h) B-37275 Pte. OLIVER, R.D. (R.H.L.I./1 CIHU)
Granted PRIVILEGE LEAVE from 0800 hrs 16 June 41. to 0800 hrs.
23 June 41. with free warrant.

4. CHANGE-OF-ADDRESS/NEXT-OF-KIN

- (a) G-17191 Pte. BENT, L.T. (C. & Y./2 CIHU.)
Next-of-Kin: Mrs. Edna Bent (Wife)
Former Address: 96 St. James St., (City) St. John, N.B., Canada.
Present Address: 224 Charlotte St., (City) St. John, N.B., Canada.

5. PROMOTIONS

- (a) F-40325 Pte. O'BRIAN, I.A. (W.N.S.R.)
Appointed L/Corporal with pay w.o.f. 13 June 41.

'B' Section (Students)

6. ATTACHMENTS

- (a) The following cease to be attached to this Unit from Units shown for a/p on completion of CMQ Course #743, Ser.1, (2 Wing) Anti-Gas School, w.o.f. 14 June 41.

No. 1 Cdn. Art. Hold. Unit

D-106900 L/Bdr. GLEESON, A.S. (R.C.A.)
C-897 L/Bdr. MULHALL, J.T. (R.C.A.)
A-28383 L/Bdr. DENALLICK, A.F. (R.C.A.)
U-1720 L/Bdr. CARE, L.A. (R.C.A.)
C-911 L/Bdr. McCORMICK, W.N. (R.C.A.)

No. 2 Cdn. Art. Hold. Unit

D-11686 L/Sgt. DUNNINGTON, R.F. (R.C.A.)
G-43002 L/Bdr. LeBLANC, L.J. (R.C.A.)
F-82138 L/Bdr. BENNETT, H.B. (R.C.A.)
G-13081 Bdr. BOCKER, L.K. (R.C.A.)
D-10030 L/Bdr. TRICKEY, W.A. (R.C.A.)

No. 1 Cdn. Inf. Hold. Unit

H-78287 Sgt. BODEN, J.C. (R.H.L.I.)
E-67334 L/Cpl. WRIGHT, R.E. (R. Regt. of C.)
C-40514 L/Cpl. GRAMAM, E.J. (H. & P.E.)
A-22677 Cpl. WOLD, S.G. (Essex Scots.)

No. 3 Cdn. Inf. Hold. Unit

M-11113 Sgt. FORER, G.C. (Calg. Highrs.)
K-52305 Cpl. HORNS, W. (S.H. of C.)
K-52536 Cpl. PRETTY, G.W.D. (S.H. of C.)

No. 1 Cdn. M.G. Hold. Unit

B-77871 L/Cpl. MCKHALL, G.E. (Tor. Scots.)
L-2202 L/Cpl. GOODFELLOW, G.M. (Sask. L.I.)
B-77276 L/Cpl. BASS, J.W. (R.M.R.)

No. 1 Cdn. Engrs. Hold. Unit

H-73059 Cpl. HUNTER, W.J. (R.C.E.)
G-9730 Cpl. SYMONDS, J. (R.C.E.)
F-91032 L/Cpl. KIRBY, J.M. (R.C.E.)

Cont'd, Page 3.

Last Order
issued
No. 59
13 June 41.

CANADIAN TRAINING SCHOOL
PART II ORDERS
Lt. Col. M.F. Gregg, V.C., M.C.,
A/Commandant,

This Order
No. 60
16 June 41.

'A' Section (School Staff)

1. ATTACHMENTS

(a) The following personnel are attached to this Unit for a/p from Units shown w.e.f. 16 June 41.

No. 1 Cdn. Inf. Hold. Unit

C-5479	Pte. VANCE, W.A.	(R. & P.E.)
A-6191	Pte. WEISS, A.	(R.C.R.)
B-38157	Pte. BAYCROFT, R.E.	(R.E.L.I.)
B-72998	Pte. ELLIS, W.T.	(48th H. of C.)
B-66643	Pte. FORBES, B.	(R. Regt. of C.)

No. 3 Cdn. Inf. Hold. Unit

L-13906	Pte. MAIR, J.E.	(S. Sask. R.)
M-16652	Pte. LORAM, G.	(Edm. Regt.)
R-16642	Pte. PINNEGAR, C.R.	(P.F.C.L.I.)
R-20409	Pte. ROBICHAUD, J.L.	(C.C.C. of C.)

(b) D-98682 Spr. BOULAY, A. (R.C.E.)

C-2463 Spr. BLAIS, J. (R.C.E.)

Attached to this Unit for a/p from 31 Engrs. Hold Unit w.e.f. 15 June 41.

(c) Lieut. H.G. MUNRO, (P.F.C.L.I.)

Attached to this Unit for a/p from 3 C.I.H.U. w.e.f. 14 June 41.

(d) 994791 Cnr. KITCHING, W.T. (R.A.)

Ceased to be attached to this Unit for a/p w.e.f. 13 June 41.

(e) The w/m Batmen cease to be attached to this Unit (2 Wing) for a/p on return to their respective Units w.e.f. 14 June 41.

A-5157 Pte. FLIMP, T.H. (R.C.R.)

D-76501 Pte. BRODEUR, R.E. (S. Sask. R.)

B-6254 Cnr. CROMB, W. (11th Yd. R.C.A.)

L-6102 Cnr. McARTHUR, W.M. (2nd Cdn. A/Tk. Regt. R.C.A.)

2. HOSPITAL

(a) H-19222 Sgt. MALEY, R.R. (S.C.C. of C./3 CHSU)
Admitted to 15 Gen. Hosp. on 15 June 41.

(b) A-3858A/Sgt. GUILER, R.R. (R.C.R.)

Discharged from Cdn. Medical Centre w.e.f. 14 June 41.

(c) E-7252 Pte. MCKINSON, K.S. (R.C.A.S.C.)

Discharged from 5 Gen. Hosp. w.e.f. 13 June 41.

3. LEAVE

(a) H-13063 Cpl. MONTGOMERY, W.L. (P.F.C.L.I./3 CHSU)

Granted PRIVILEGE LEAVE from 1200 hrs. 16 June 41. to 1200 hrs. 25 June 41. with free warrant.

(b) B-73975 S.A.M.S. DAVIS, J.M. (48th H. of C.)

Granted PRIVILEGE LEAVE from 1200 hrs. 16 June 41. to 1200 hrs. 30 June 41. with free warrant.

(c) B-17280 Pte. DeROMANETTE, R.R. (P.F.C.L.I.)

Granted PRIVILEGE LEAVE from 0800 hrs. 16 June 41. to 0800 hrs. 25 June 41. with free warrant.

(d) B-10664 Bdr. QUINLAN, T. (R.C.A.)

Granted PRIVILEGE LEAVE from 1200 hrs. 13 June 41. to 1200 hrs. 20 June 41. with free warrant.

Last Order
issued
No. 78
24 July 41.

CANADIAN TRAINING SCHOOL
PART II ORDERS
Lt.-Col. C.W. Dovey,
Commandant.

This Order
No. 79
25 July 41.

'A' Section (Officers)

1. School Staff

1. STRENGTH INCREASE

- (a) Capt. G.W. RILEY, (R.C.A.S.C.)
T.O.S. this Unit on reposting from 1 Div. Petrol Coy., R.C.A.S.C.
w.e.f. 15 Oct. 40. (Auth: CMHQ letter Can/02E/U/50 d/22 July 41.)
- (b) AMENDMENT Para. 2 (a), D.O. #1 d/26 Dec. 40.
Insofar as it relates to "Capt. G. RILEY (R.C.A.S.C.)" is hereby
cancelled.

2. LEAVE

- (a) Capt. P.E. DOWLER (Calc. (Tank) Regt.)
Lieut. W.A. MURRAY (V.R.C.)
Granted PRIVILEGE LEAVE from Rev. 21 July 41. to Rev. 28 July 41.
with free warrant. Address: H.M.S. Wasp (R.N.)

2. Under Instruction

---NIL---

'B' Section (Other Ranks)

1. School Staff

3. STRENGTH DECREASE

- (a) A-3784 Pte. EZEARD, J.H. (R.C.B.)
Declared by Court of Inquiry A.W.L. from 1200 hrs. 20 June 41. is
S.O.S. as a deserter w.e.f. 18 July 41. Found his kit deficient to
the extent of 225-8-5. (F.R.&I 158 (2). Forfeits 28 days pay F.R.& I.
149 (1) (a), (R.O. 262)

4. ATTACHMENTS

- (a) C-5398 Spr. PERRY, O. (R.C.E./1 Engrs. H.U.)
Attached to this Unit for a/p from #1 Engrs. Hold. Unit. w.e.f.
19 July 41. (Auth: CBU/6-0-Tran-1 Inf.)
- (b) C-2463 Spr. BLAIS, (R.C.E./1 Engrs. H.U.)
Attached to this Unit for a/p from #1 Engrs. Hold. Unit w.e.f.
25 July 41.
- (c) B-31325 Spr. FERRIN, C. (R.C.E./1 Engrs. H.U.)
Declared by Court of Inquiry A.W.L. from 1200 hrs. 22 June 41.
ceases to be attached to this Unit for a/p from #1 Engrs. Hold. Unit
having been declared a deserter w.e.f. 18 July 41. Found deficient
in his kit to the extent of 220-12-7 (F.R.& I. 158 (2). Forfeits
26 days F.R.& I. 149 (1) (a), (R.O. 262)

5. LEAVE

- (a) G-42563 L/Cpl. WALLS, G.P. (R.C.A.S.C.)
Granted PRIVILEGE LEAVE from 0800 hrs. 24 July 41. to 0800 hrs.
2 Aug. 41. with free warrant.

2. Under Instruction

6. ATTACHMENTS

- (a) The following Other Ranks are attached to this Unit for a/p
from units shown while attending CMHQ Course #812 (#3 Wpns. Wing)
Snipers' Course w.e.f. 25 July 41.
- ✓ C-4713 Sgt. NUTLEY, C.F.R. (H.& P.R./1 CIHU.)
✓ D-61177 Sgt. MEILLEUR, R.N. (F.M.R./2 CIHU.)
B-73192 Pte. RADCLIFF, J.A. (48th H. of C.)
✓ K-520-7 Cpl. TUPTS, R.S. (Seaf. Highrs./3 CIHU.)

7. STRENGTH RETURN as of Fri. 25 July 41., attached as an appendix.

ECF/TL.

(E.C. Peckham) Capt., The L. & W. Regt.
A/Adj., Canadian Training School.

I hereby admit receipt of a true copy of the Summary
of Evidence in the charge against me, taken before Lieut
W.A.Murray on the 29 July 1941.

Dated at Borden Camp,
Hants.,
1 Aug. 1941.

J. H. Ezeard
(J.H.Ezeard) Pte.

RSTA

Havannah Barracks
Bordon, Hants.,
1 Aug. 1941

I, A. 3784, Pte. Ezeard, J.H. Royal Canadian Regiment,
attached to the Canadian Training School, do not wish
to have an officer assigned by the convening officer
to represent me at my trial by Court-Martial.

J. H. Ezeard *Ritz*
(J.H.Ezeard) Pte.

6.9 W
Othe Heard J. H.
(See also 9. C)

O. H. M. S.

M. F. B. 270

MADE IN U.S.A. 1950-1955
No. 1772-20-12

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A-3784, PTE. EZEARD, Joseph Hugh. (R.C.R.) C.T.S.	FIRST CHARGE. Sec. 40 Army Act.	Not guilty	Not guilty 7/1	
	(See charge sheet attached)			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?" **NO sir.**
Answer (to be recorded on separate sheet if necessary) :—

(Signed) J.F. Archambault Brigadier, (Signed) J.F. Archambault Major
(J.F. ARCHAMBAULT) Commanding *F* Group, C.B.W. R.C.F.
Confirming Officer (g) President

- (a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
- (b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
- (c) Recommendation to mercy, if any, to be inserted in this column.
- (d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
- (e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialed by him.

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

I certify that the above Court assembled on the 2nd day of September 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

B.
Certificate of President as to proceedings.

- I also certify that :—
1. The members of the Court
 2. The witnesses
 - * (3. ~~The interpreters~~)
 - * (4. The officers under instruction)

* Omit if not applicable.

were duly sworn.

Signed this 2nd day of Sept. 19 42
J.F. Archambault
President of the Court Martial.

* See footnote (d) on page 702 M.M.L. 1945.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

C.
Certificate in case of death sentences.

Signed this _____ day of _____ 19 _____

President of the Court Martial.

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

D.
Confirmation

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

* (I direct that the soldier named in the margin be not committed to prison until further orders.)

Signed this _____ day of _____ 19 _____

Confirming Officer.

- Promulgated and extracts taken in the case of (a) (Dated) _____ (Signed) _____
- Promulgated and extracts taken in the case of (Dated) _____ (Signed) _____
- Promulgated and extracts taken in the case of (Dated) _____ (Signed) _____
- (a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

"B" *H. H. H. H. H.*
Maggies

CHARGE SHEET.

The accused, No. A.3784 - Pte. EZEARD, Joseph Hugh, Royal Canadian Regiment, posted to the Canadian Training School, a soldier of the Canadian Army Overseas is charged with, when on active service

Army Act
Sec. 40.

Conduct to the prejudice of good order
and military discipline

in that he

at approximately 0900 hours on 16 August 1942, improperly and without proper authority drove W. D. vehicle No. C.M. 4202142 between Frith End, Hampshire, and Farnham, Surrey, and became involved in an accident occasioning damage to said vehicle causing loss or damage to the Canadian Government to the extent of fifty pounds (£50-0-0).

Havannah Barracks,
Bordon, Hants.
29 August, 1942.

C. W. Devey
(C. W. Devey) Col., Ld. S. H.
Commandant,
Canadian Training School.

To be tried by Field General Court Martial,

J. P. Archambault
(J.P. ARCHAMBAULT) Brigadier,
Commanding, "F" Group,
Canadian Reinforcement Units, Convening Officer.

Bordon, Hants,
31 Aug 42.

"A". *Hickman*
Pres.

2 Sep. 42.

MEDICAL OFFICER'S CERTIFICATE

I hereby certify that I have today examined No. A.3784,
Pte. Ezeard, J.H. and found him medically fit to undergo
trial by Court Martial.

R. E. McCaffrey
(Doc. J. Long) Capt., R.C.M.C.,
Medical Officer,
Canadian Training School.

Proceedings of a F. G. C. M.

In the field on the 2nd day of Sept 1942.
 Trial of # A. 3784 Pte Joseph Hugh Egeard
 R. C. R. (attached C. T. S.)

The order convening the Court, Charge & Summary
 of Evidence & Medical Certificate are laid
 before the Court.

The Court satisfy themselves as provided by
 R. P. 22 + 23 as modified by R. P. 106.

The accused is brought before the Court.

Prosecutor: Capt. P. E. Dowler C. A. R. (T) & C. T. S.

Defending Officer: Lt R. Schwob R. M. R. (M. 9) & C. T. S.
 at 14:25 hrs the trial commences.

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

R. P. 25 is complied with - the accused having
 no objection to the composition of the Court the
 President & members and member under
 instruction are duly sworn.

The following constitute the Court:

President: Major T. J. Ginnear R. C. A.

Members: Capt. H. H. Darling I. C. B. O. W.

Lt. J. M. Gifford I. C. B. O. W.

The accused is duly arraigned & pleads
 not guilty to both charges.

R. P. 34(a) is complied with.

The

T/S

5
Hilmar Naji Res

The accused is arraigned at 1240 hours
and pleads "not guilty".

R.P. 39 (A) is complied with.

Prosecution.

The prosecution does not desire to
make an opening address & proceed
to call witnesses.

1st Witness for the Prosecution. K.14042 Pte Farmer, R.C.O.C.
att. I.C.O.R. U duty room
states:- On Sunday the 16th day of
August '42 about 0900 hours an automobile
accident occurred on the highway leading
towards Farmborough Parkham. I do not
know the District. At about 0850 hrs
I was picked up by the accused who
was driving a station wagon. I
was picked up at near the Firehall
at Borden. Corporal Bennett was with
me & was also picked up. Also
a 3rd Gen soldier whom I do not
know. When the car stopped there were
two in it - that is the accused who
was driving and private Joques sitting
along with the accused in the drivers
seat. We proceeded ~~Farmborough~~
towards Farmham at about 35 to
40 miles per hour and came to
a down grade - an English
Army lorry was ahead of us. Both
the station wagon driven by accused
& the Army lorry were on the left
hand side of the road proceeding
in the same direction.

1 witness
card.

The Honourable Mr. Justice
6

The accused when about 40 yrs
behind the lorry sounded his horn
and then ~~steering~~ turned out
to the right hand side of the road
to pass the English lorry. The
English driver made no signals
whatever. The English lorry without
making any sign or signal
right turn to go to a road leading
off to the right and over station
of the lorry. Before the accident
I heard a conversation between
the accused & the soldier with him
in the past whom I later learned
was private Joe Jones. They were
both talking to the effect that
it was too late to catch a train
at Bentley & that they would go on
to Tarnham & catch the train
there.

Cross examination: The visibility
ahead at the place where the
accident happened was good. The
road coming in from the right
down which the English lorry
turned was a narrow secondary
road. Before passing the English
lorry the accused was sounding his
horn clearly several times
he had been in the corner about 20
minutes before the accused picked us up
at night there been a little later than
0850 hours.

To the Court - I was in the middle seat on
the left hand side. The driver was on the right
side of the front seat.

2nd Witness for
Prosecution
cont'd.

8

F. J. Gilman Major

The accused is shown Aldershot
Command area map. Ordnance Survey
of Great Britain, one inch to one mile and
gives the location of the place where the
accident happened as map ref. about
253 632.

Cross-examined. The trip authorized
from Borden to Bentley was a legitimate
trip. The accused left Borden gate at
0840 hours. Yes the ticket had 0900
hours on it. I just didn't think
look at my watch & thinking about
the train coming into Bentley at 0900
hours I must have put 900 hrs on
the work ticket. When I went to the
school pen to park as accused was
going out the gate on start of his
journey I looked at the clock on
the school & it was 0840 hours.
Q. Has the school clock been known
to be wrong.
A. Yes I believe it has.

R.P. 83 (iv) complies with.

3rd Witness for
Prosecution

Capt J. M. Lockhead. N.L.S. for
posted to C.T.S. duly sworn states.
I am transport officer at C.T.S.
On Sun. 16 of Aug. at 0915 hrs I
was called on the phone & as a result
went with Cpl Morrison to the
scene of an accident where we
found our str. Wagon CM 4203142

First witness

Cont'd. I was in hospital four days as a result of the accident & I don't know what damage was done.

R. P. 83 (b) complied with

2nd witness for L. 1238 Cpl. Morrison, R.A.
Prosecution. R.C.A.S.C. posted to (C.T.S.)

Duty sworn states: I am in charge of patrol & drivers at the Can. Training School. witness identifies a work ticket issued by him to the accused in accordance with exhibit "C". On Sunday Aug 16/42 I detained the accused to proceed in a str. wagon to Bentley from Borden to take another soldier Private Joerges to Bentley station. At 0944 or 1000 hours I had been notified there had been an accident. When I gave the accused orders to go to Bentley I told him verbally to go to Bentley station & to Bentley station only.

Capt. Lockhead the transport officer & I proceeded to the scene of the accident which was at junction of the Rowledge road with the Borden-Tamworth road. We found C.T.S. Station Wagon 4202142 had been in an accident with an Sgt. Bedford Perry. The highest lorry was a 30 cwt. The left front fender & head of the station wagon were torn & bent. The radiator was broke & the generator damaged. The fan was broke off. The windshield was cracked. The steering wheel bent.

2nd Witness for
Prosecution

8

F. J. Gilmore Major Pres.

cont'd.

The accused is shown Aldershot
Command area map. Ordnance survey
of Great Britain one inch to one mile and
gives the location of the place where the
accident happened as map ref. about
253 632.

Cross-examined. The trip authorized
from Borden to Bentley was a legitimate
trip. The accused left Borden gate at
0840 hours. Yes the ticket had 0900
hours on it. I just didn't think to
look at my watch + thinking about
the train coming into Bentley at 0900
hours I must have put 900 hrs on
the work ticket. When I went to the
pilot pumps just as accused was
going out the gate on start of his
journey I looked at the clock on
the school + it was 0840 hours.

Q. Has the school clock been known
to be wrong.

A. Yes I believe it has.

R. P. 83 (b) complies with.

3rd Witness for
Prosecution.

Capt J. M. Lockheed. H.L.S. for
posted to C.T.S. duly sworn states.
I am transport officer at C.T.S.
On Sun. 16 of Aug. at 0915 hrs I
was called on the phone + as a result
went with Cpl Morrison to the
scene of an accident where we
found our str Wagon CM. 4202142

which had been involved in an accident with an English 30 cwt Bedford Trolley. The accident was at Map ref. 1252632 on the Aldershot command sheet at the junction of Farnham Borden Road & the road leading off to Rowledge. The Sun Wagon was pointing towards Farnham with its nose into a hedge on the corner of the trolley was parked, presumably close to it. I received the phone call at about 0915 hours but I am not sure of the exact time. The place of the accident is not on the road from Borden to Bentley. You turn off the road for Bentley before you get to this point where the accident occurred.

Cross examination:

Q. As transport officer what view would you take if any of your drivers on his own initiative proceeded behind the limits authorised by his work ticket provided he had a legitimate reason for so doing?

A. If a driver were proceeding to a particular place & through no fault of his own was detained so that he could not reach that point on time to make train connections I would think he would be justified in proceeding to some other nearby station where the train could be caught provided it was within a reasonable distance. Our driving is mostly individual trips & our drivers who are all trust worthy must use their own initiative.

The procedure is clear

The procedure is clear
 R.P. 83(a) is also not
 different. It has been a
 while since I have seen
 the procedure in the
 book. It is a normal rate of
 15% for the first 15 minutes
 and then 10% for the rest of
 the day. I think it is
 necessary to check the
 procedure - also the work
 sheet which shows the
 work done. It is a very
 clear and simple procedure
 to follow. It is a very
 good example of a
 simple and clear
 procedure.

11
Defence

R.P. 40 complied with
1st witness for Defence. Accused A. 3784 Pte
states. When I stopped at Borden
Fire hall to pick up the 3 lads
who were waiting for a bus & after
they had got in the car I asked
them the time & they said between
10 to mine + 5 mins to mine & I
knew I could not make the train
at Bentley Station in time. I
know the distance to Bentley
is approx. 5 to 5 1/2 miles. The
train was due either at 2 mins to
9 or two minutes after. That is
there was a discussion between Pte
Jacques & myself as to whether we
should proceed to Farnham Str or
Bentley Str. which we knew the
difference in the mileage could be
straightened out when I came
back. While proceeding along the
Borden Farnham Road I noticed
an Eng. Lorry ahead of me. When
we were approaching Holt Pond Bottoms
when about 40 to 50 yds behind the
lorry I started blowing my horn to
pass. I continued to blow the horn.
When almost beside him when pulling
out to pass he took a sharp turn to
the right in which he gave no hand
signal which resulted in me
hitting his lorry on the right hand
wheel. The prosecutor does not desire to examine
By the Court. This is the first time I have had to
use my combative + to be heard the lads
press

F. G. Gilmour
Major
Pres

Submission by Defense...

According to sworn evidence of Mr. Farmer & occurred the station wagon was at Gordonville Hall at approx 0850 or 0855 hrs. Train got to Bentley at approx 0900 hrs. However it was not due at Kernham until 7 to ten minutes later. Road to Bentley narrower & with more curves than road to Kernham. Road to Kernham only about 2 1/2 miles farther.

Capt. Lockard stated that provided there was a legitimate reason for proceeding beyond the authorized limits in the work which he would not feel that a crime had been committed or words to that effect. He further stated in answer to the question was the accused reliable "Yes, definitely."

The accused could have no purpose other than getting his passengers onto the train, for proceeding to Kernham on his return to camp was to proceed on pass to Portsmouth.

The accused has stated on oath that he was not responsible for the accident and no evidence has been submitted to prove anything to the contrary.

The accused had been told to take the passenger package to the train. He was given this trip at approx 0840 hrs or later (Commission states 0840 hrs not true by the school clock which is apparently slow) therefore the accused through no fault of his own had insufficient time to get to Bentley.

Robert Belmont Lieut.

14

7/15/68
Meyers

Submission by prosecution

Sir:

The evidence as presented to the court clearly shows that the accused was in possession of the vehicle at a point not covered by the route shown on the "work ticket." He was warned by Cpl Morrison that Bentley was the station to which he was to proceed and no other.

The only evidence that I am able to submit showing the amount of damage done to the vehicle is a carbon copy of a signed statement made by Capt. Burnett - O/C #63 LAD and is herewith presented.

J. E. Howle capt

written statement of Capt
Burnett

not acceptable - no authority to accept
written statement unless
of Personal Affairs
C/O Mitchell

TRANSPORT WORK TICKET.

No. *M. 23*

Make of Vehicle *Ford*

Class *Station Wagon*

W.D. No. *H2021H2* Date *AUG 16 1942*

Unit *E.T.S.*

Section *M.T.*

Driver's Name *P. G. Egan*

Hour of Parade *0800*

For whom journey is performed (1)	FULL Details of load and service (2)	ROUTE			Signature of person authorising journey (6)	TIME TAKEN		Miles run (9)
		From (3)	To (4)	Via (5)		From (7)	To (8)	
<i>ADMIN. Duty</i>	<i>transportation</i>	<i>Bordon</i>	<i>Bentley</i>	<i>Direct H. Mansie</i>			<i>9:00</i>	
		<i>Bentley</i>	<i>Bordon</i>	<i>Direct. H. Mansie</i>				

H. Mansie
my of
place

SPEEDOMETER READINGS		FUEL		GALLS	
Miles					
(10) In		(12) Held at Start	<i>73</i>	(13) Total hours out on duty	<i>24</i>
(11) Out	<i>53187</i>	(13) Add—Amount drawn		(14) Deduct—Remains on completion	
Mileage		(15) Quantity Consumed			

(17) Signature of Driver *P. G. Egan*

(18) Counter signed *H. Mansie*

REMARKS

E

SUMMARY OF EVIDENCE

IN THE case of A.3784 - Pte. Ezeard, Joseph Hugh, Royal Canadian Regiment, posted to the Canadian Training School, a soldier of the Canadian Army Overseas, taken before Capt. E. C. Peckham at Havannah Barracks, Bordon, Hants.

28th and 29th August, 1942.

Summary of Evidence taken on Oath by Order of the Commandant.

1st Witness.

K.14042 - Pte. Farmer, J., R.C.O.C./1 C.O.R.U., having been duly sworn states:-

" On 16 Aug. 42, about 0850 hrs. I was waiting on the Fire Hall corner at Bordon with two other chaps when Pte. Ezeard came along in a station wagon & picked us up. Going down the road I heard Pte. Ezeard and a chap in front in a discussion and Pte. Ezeard stated it was too late to get the train at Bentley but we would be able to make the train at Farnham. We proceeded along the road and at an intersection were involved in an accident."

Question by accused: "Did you hear me ask the other chap if we should go on to Bentley or continue to Farnham as it was too late for the train at Bentley?"

Answer: "Yes there was a discussion on that question."

The accused declines to question the witness further.

J. Farmer
(J. Farmer)

2nd Witness.

L.7258 - Cpl. Morrison, K. A., R.C.A.S.C. posted to the C.T.S., having been duly sworn states:-

" On 16 August, 1942, at about 0840 hours I issued a work ticket to Pte. Ezeard to proceed to Bentley. I instructed him to go to Bentley Station only, saying: "This is for Bentley Station and Bentley Station only." or words to that effect. About 0950 hours as a result of a report received I proceeded to the junction of the Bordon-Farnham and Rowledge roads, with Capt. Lohead. There I saw C.T.S. Station Wagon, C.M.4202142 badly damaged and headed into a hedge as the result of an accident."

Question by accused: " Did I reply when you said to Bentley Station only?"

Answer: "I said to Bentley Station only and get back as soon as possible and you said, 'If not sooner.'"

A work ticket (Army Form G551B) was produced and identified by Cpl. Morrison as the ticket issued for the journey to Bentley and was marked "Exhibit A."

An "Aldershot Command" sheet was produced and Cpl. Morrison identified point 252632 as the location of the accident.

Accused declines to question the witness further.

K. A. Morrison
(K. A. Morrison)

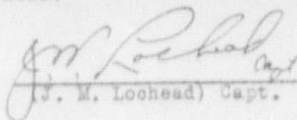
3rd Witness.

Capt. J. M. Lohead, H. L. I. of C., posted to the C.T.S., having been duly sworn, states:

" I am Transport Officer of the Canadian Training School. On 16 Aug. 42, as a result of a report received I proceeded to the junction of the Farnham-Bordon and Rowledge Roads. There I found C.T.S. Station Wagon C.M.4202142, which had been involved in an accident with an English lorry. Pte. Ezeard was not at the accident at that time as he had been taken to C.M.C. The point of the accident is about three miles beyond the shortest direct route to Bentley."

An "Aldershot Command" sheet was produced and Capt. Lohead identified point 252632 as the location of the accident.


Accused declines to question the witness.


J. M. Lohead) Capt.

4th Witness.

Capt. A. R. Burnett, Officer Commanding #63 L.A.D., R.C.O.C.

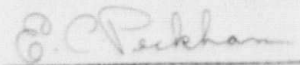
A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence. Having regard to the exigencies of the service the attendance of this witness cannot in my opinion be readily procured.


(E. C. Peckham) Capt.

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

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

I certify that the foregoing summary of evidence consisting of two pages and the attached statement of Capt. Burnett, with the exception of that statement, was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C), (D), (E), (F) and (G) have been complied with.


(E. C. Peckham) Capt.

Bordon, Hants,
29 August, 1942.

Statement of:

Capt. A.R. Burnett, Officer Commanding,
#63 L.A.D., R.C.C.C.

I inspected on 18/8/42 Vehicle No. CM-4202142, Ford, Station Wagon and found the following damages:-

- | | |
|---------------------------|-------------------------|
| 1. Frame Bent, | 6. Left Fender torn, |
| 2. Windshild Broken. | 7. Hood bent. |
| 3. Radiator Grill Broken. | 8. Battery N/S |
| 4. Radiator Smashed, | 9. Steering Wheel bent. |
| 5. Fan Assembly Broken | |

also I found the front has been pushed in and Engine pushed back on frame with the front support smashed.

To the best of my ability I estimate the cost of the repairs will be £50/0/0

A.R. Burnett
(A.R. Burnett) Capt.

COUNTER NUMBER 568252

HOUR 8:29

OPERATOR'S INITIALS E.R.

RELIEVING OPERATOR _____

Affidavit

PROVINCE OF ONTARIO } I, Charles Ross
 COUNTY OF CARLETON } of the City of Ottawa, in the County of
 TO WIT: } 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 _____

 CAMERA OPERATOR

A NOTARY PUBLIC

Dated _____

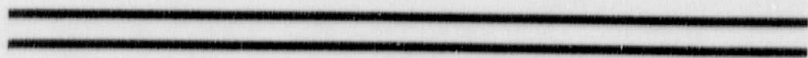
DEC, 3 19 50

APPENDIX "A" TO THE AFFIDAVIT

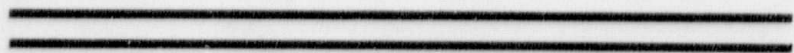
CAMERA OPERATOR'S REPORT

PRODUCTION DATA		JOB NO. <u>44</u>	REEL NO. <u>10-7</u>
		BOOK NO. <u>2-5</u>	
		INDEXING DATA	
		<u>11-10-50</u>	
	DATE	HOUR	BEGINS WITH <u>ESPIONAGE I.E.</u>
STARTED			1. _____
FINISHED			2. _____
TOTAL NO. OF HOURS		1	3. _____
TOTAL NO. OF IMAGES		510	ENDS WITH <u>ESPIONAGE I.E.</u>

END



==== **FIRST** =====



SIDE

44

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19

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2