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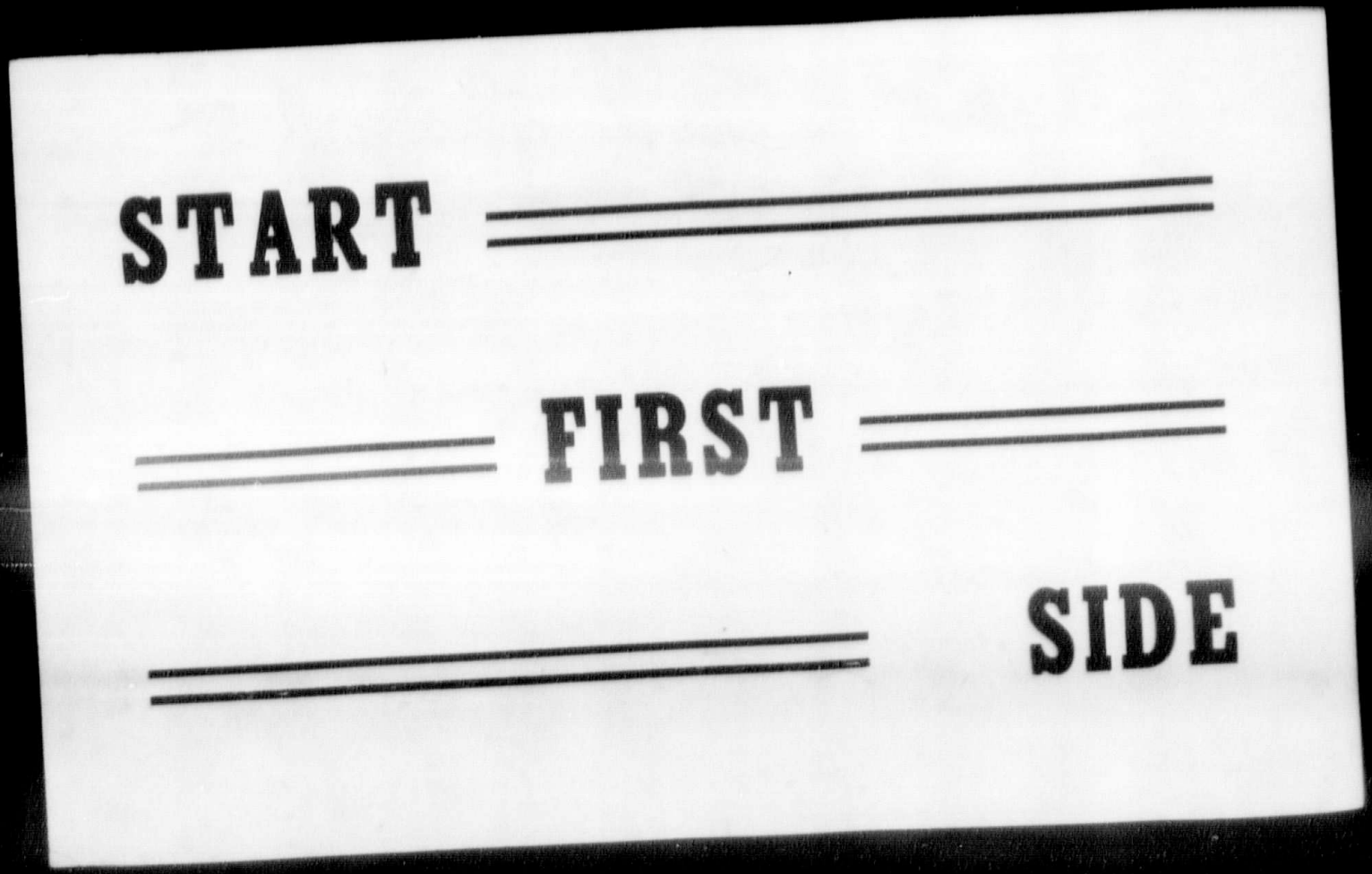
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CCC-108

PTE QUENNEVILLE L.

SCHEDULE.

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

Accused: C.21715 Pte. Leopold QUENNEVILLE (C.H. or O.) 5 C.I.R.U.

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 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 lieu of kit see RP 44 fn 6.)

~~At present until completion of~~ beginning on (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 6 days, of which Nil 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 (150) one hundred & fifty days.

3 Feb 44. (Sgd) H.A. Theobald major

(Sgd) _____ 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.)

I confirm the finding of the Court but reserve confirmation of sentence pending further report

Date 9 Feb 44 (Sgd) J.C. Stewart Brig Commanding Brigade
Downstairs HQ 1 Cdn Inf Div

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

(For duties and powers see AA 54, 57, RP 271(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 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 Con 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 ~~findings and~~ sentence set forth in Part I is:

I confirm the sentence

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

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

(Sgd) E.L.M. Burns Major General
Chief of Staff

Date _____ Commanding Canadian Military Headquarters
Confirming Officer

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

Accused.	Date.	Signature of Offr.
C.21715 Pte. Quenneville, L. 5 CIHU Part II D.O. No. 38 d/21 Feb 44	19 Feb 44	Thomas E. Rogers Capt & Adjt 5 Cdn Inf Hft Unit

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

No illegalities or irregularities such would warrant withholding confirmation

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig J.R. Stewart Lough DSO MC VD Comd "G" Gp C.R.U. dated 2 Feb 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 Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C.21715	Pte.	Leopold	QUENNEVILLE	C.H. of O. 5 C.I.R.U.

PROCEEDINGS REVIEWED
26 Feb 44
J.R. Stewart Lough Brig
BROUGHT BACK FROM BRANFORD TO
England
Held in the Bf in tonicity

on (date) 3 Feb 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 INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns. 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, CF 485, 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, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1)

A3. 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 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1405 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 desires or is ready by court-martial instead of being dealt with summarily.~~(2)

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

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

~~The Interpreter is sworn. Do you object to~~ as shorthand writer? Ans _____

~~The shorthand writer is sworn.~~

(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 60(B). If objection, see procedure AA 51, RP 23, 71, 110, 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 composing the Court, viz:

President	Major H.A. Theobald (Westminster R)	5 C.I.R.U.
Member	Capt H.D. Wilson	1 C.I.R.U.
Member	Lieut B.H. Lamont (1 C.S.H.R.)	1 C.I.R.U.
~~Judge-Advocate~~		
Prosecutor	Lieut J.S. Freeman	5 C.I.R.U.
Defending Offr	Lieut J.H. Patrick	5 C.I.R.U.

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

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

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

A9. The accused is (~~not~~) arraigned ~~on supplementary~~ 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 use separate copies of CF 486 to record proceedings. 2. RP 32, AF 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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 asthy 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 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* 102; *duty of Prosecutor see RP* 60(*A*) (*E*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *meaning and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*c*), 92(*d*)), *and of witnesses see RP* 83-85; *calling or recalling of witnesses by Court etc see RP* 75-79, 86, 116; *use of documentary 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)

AAF President to accused: Do you wish to make a statement? Ans. No. (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

AAF B3. ~~The Court considers the accused's statement (6) The Court decides (not) to advise accused to change his~~
AAF ~~plea(s) of Guilty to Not Guilty on the charge(s). The accused is (not) so advised, and he (does)~~
AAF ~~(does not) (by (himself) (his Counsel)) elect to proceed. Part II of the Schedule is (is not) filled in.~~
(*6. Court may be closed to consider the statement. Delete whole or part not used.*)

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

AAF 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 paras 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 C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate 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.(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 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 80(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(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 155. 2. RP 40(A), see B(C). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF AR5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B(C). Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 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 54(3) (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 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.

AAF 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 3. 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 2 A 163(3) (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 AAF marked Ex B and Ex C respectively.(3)
(*1. MFB 353 or AFB 296. 2. MFM, p. 3. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

AAF 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 (See statement by DC on doing of plea.)(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or say 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 54(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 J.A. if any.(2) JP/CD
(*1. When several accused tried separately see RP 360. One sentence only, comprised of the punishment or punishments laid down in AA 45, 46 and its proviso, to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 96, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2325, MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see letters on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. C.91716 Private [illegible], Leopold, Canada, Victlanders of Ottawa, on the strength of 2 Canadian Infantry Reinforcement Unit, as a reinforcement, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Army Act
Sec. 15 (1)

WHILE ON ACTIVE SERVICE, ABSENTED HIMSELF WITHOUT LEAVE

in that he

in the Field, did absent himself without leave from 2359 hours on the 27th day of November 1943 until surrendering himself to the Civil Police at Paddenswick Road, W.5, London, at 2145 hours 26th day of January, 1944.

Total time absent 61 days 21 hours 46 minutes.

[signature]
(A.E. Pearson) Colonel
Commander
2 Can Inf Rft Unit

In the Field
31st day of January
1944

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

[signature]
(J.R. Stewart Lough) Brigadier,
Commander "G" Group,
CANADIAN REINFORCEMENT UNITS.

2 Feb 44

Convening Officer.

L.S.V.

FIELD GENERAL COURT-MARTIAL

CPA66 (In lieu of AFA3) 40/PAM/1697 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate 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, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C.21715	Pte.	Leopold	QUENNEVILLE	C.H. of O. 5 C.I.R.U.

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 dated (*date*) 2 Feb 44 endorsed by me, (~~and dated~~) "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 that the Court should be composed of officers belonging to the same unit as the accused.~~ (*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. ~~Any witness or witnesses for the prosecution or defence may be sworn and examined on commission.~~ (*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~The Court may proceed with the trial notwithstanding the absence of any member thereof.~~ (*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	N.D. THEOBALD MC (WESTMR REGT)	5 C.I.R.U.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Captain	to be detailed by O.C.	1 C.I.R.U.
A Lieut	to be detailed by O.C.	1 C.I.R.U.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
A Lieut	to be detailed by O.C.	5 C.I.R.U.

JUDGE-ADVOCATE.

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

On Active Service in the Fd in England (*Country.*)

Date 2 Feb 44

J.R. Stewart Lough (Signed personally. RP 105 (n 2))

(J.R.Stewart Lough) Brigadier (Rank.)

"G" Group Cdn Rft Units. Commanding Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

N.D. Theobald mjr

MEDICAL OFFICER'S CERTIFICATE
K.R. (Army) para 83f

I certify that I have this morning examined No. [redacted] (rank)
[redacted] (name) of [redacted] and in my opinion he is fit to undergo trial by Court Martial.

Station: Pouncey Barracks
Farnborough Hants

Date: 3 Feb 44.

F.D.F.

[redacted]

Statement in mitigation of punishment for

Pte. Leopold Quennelle.

Personal and family history.

Born, Dec 24, 1923 into a family which was to prove unhealthy and unstable

Left school in 3rd grade at age of 13 yrs.

When 9 yrs old lost hearing in one ear.

One brother and one sister died of T.B.

One brother has lived at home for 12 yrs with T.B.

Father spent two years in an institution for the mentally unstable

Quarrelled with brother and just could not learn to be told to do things by him

Never paid for work at home on the farm.

Army history.

18 yrs of age enlisted on 19 Sep 41

Proceeded overseas Mar 42.

Aug 43 hospitalized due to injury from 69 grenade

While in hospital had sore on lip and given Kahn & Wassermann tests. Found negative & tattle doubtful enough to have recommended retesting in Nov 43. This not yet done.

Immediate past history in Army.

A.W.L. for 18 days in Sep & Oct 1943. Influenced by others. He had money and they helped him spend it.

H.D.C.

Persuaded to go AWL this last time for a similar reason; and stayed away until End of January 1944 when he surrendered to civil police.

General characteristics and stability of accused

Stares by accused of thoughts of suicide.
General nervousness.
Effeminate.
General instability and dullness. MO's report

Conclusion:

Recommend that in view of first offense and general instability that sentence be reduced as much as possible so that accused may be given thorough Psychiatric and Medical examination which will result in his being allocated to some branch where he should be more useful.

J. P. Wallick Lieut
Defending

See attached doctors opinion.

H. D. Thurwald major

8JIHU-1-2-MD/4.
3 Feb.44.

Lt.Col.J.C.Patrick,
S.O.I.H.U.

S.81715 Pte. Beauneville,H.

1. The history of the m/n soldier presents many features of instability and mental illness.

2. In my opinion the m/n soldier should be reviewed by a Psychiatrist.

3. For your information, please.

H A Greenville

(H.A.Greenville)Capt., RCAMC.
Medical Officer,
S.O.H. Infantry Btn., Unit

/cmc.

H. D. F.

COPY No.2712

No.6 CANADIAN GENERAL HOSPITAL

DEPARTMENT OF NEURO PSYCHIATRY

2.7.5 Pte Quenneville, L. - 5 CIRU
Cat A Age 20 Service 2 5/12 Enlist Sep 41
Overseas Mar 42

REPORT: 5 Feb 44

Single
Referred for S grading. Adjustment difficulties in unit.
C.C. Can't hear well, can't seem to learn well, memory is poor. Becomes depressed and lonely. "Cant stop myself going AWL. Nerves get me bad."
Family History: Family F spent several yrs in Ont Mental hosp, remains mentally impaired apparently vascular accidents, unstable until previously. Mother irritable, nervous. 2 sib (brothers & sisters) died TB. 2 brothers, 2 sisters alive and well. 1 Brother doesnt work said to have T.B.
Past Illness: Denies any but childhood disease. Denies VD pre or during service. Claims several cerebral injuries in childhood. Service Gun Shot Wound in legs - Aug 42. 16 CGH.
P.H. Born and raised in small village East Ont. Largely French Canadian. Father farmer and rented large farm and until patient was 10 years was prosperous but tended to neglect family through drinking. Patient had psycho neurotic trait Enuresis persisting in mild degree to present. Phobias, temper tantrums and recessiveness. He was incompatible with sibs (brothers and sisters), hated brothers, petty thefts for which he was beaten by them. Poor educational progress couldn't remember or learn, readily confused, no interest. Poor at games, never learned to throw a ball. Socially fair, smoked early; he denies juvenile crimes, mixed poorly opposite sex. Employed in father's farm with short period of wandering and casual labour. States he operated farm after reverses in family fortunes through father's illness and mental instability; was irritable and impulsive couldnt take advice, would leave home for short periods when bothered. Didnt intend to enlist but went up for exam with friend so could get a rejection slip so could continue work on Govt job. Was accepted.
M.H. Enlisted Sep 41 completed basic training with difficulty, couldnt learn or keep mind on lectures. No trouble with CAT. Employed in fatigues, few AWLs, drunks. Not discontented as stationed near home. Overseas Mar 42. 4 mons in HU. Again had difficulty with POETs but sent to field in Jul 43. In Aug during battle innoculation wounded. He was in state of acute fear and confusion - 6 weeks in 16 CGH. Went AWL on return to unit on suggestion of fellow. Sentenced to FP on return and immediately went AWL on completion. Has contd to go AWL. Becomes depressed, nervous, tense when in barracks. Cant control himself doesnt want to go AWL but cant resist a suggestion. When in field was also very tense restless and went AWL. Stayed in woods. He has difficulty finding female companionship states he was taken in by widow aged 45 in London and seduced, has returned there when AWL. Finds other companions, denies sexual abnormalities. Longest period AWL was 19 days Sep 43 with sentence of 28 days detention. At present waiting POCM. In detention has become very irritable, nervous with impulses to violence. Has occasionally thought of suicide in past.
O/E Well developed and nourished stignale inferiorly. At the exam is markedly tense, with hysterical mannerisms and reactions. Speech slurred, husky, excessive salivation. CNS neurological exam NAD. Has scarry penis, glands neg. Was readily confused emotionally. Labile affect is congruous. Rapid swings in mood. Mentally he is border line and dull memory, poor comprehension calculative poor. Judgement is poor lacks emotional control with irritability impulsiveness. Childish tantrums. No present delusions but personality and reactions show pre-psychotic traits.

Exhibit A
WD

RECORD of the Declaration of a Court of Inquiry assembled at Tournay Barracks Farnborough, Hants on the 20th day of December 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. C.21715, Pte Quennville, L., Cameron Highlanders of Ottawa, on strength of 5 Canadian Infantry Reinforcement Unit

DECLARATION

The Court declare that No. C.21715, Pte Quennville, L., Cameron Highlanders of Ottawa, on strength of 5 Canadian Infantry Reinforcement Unit illegally absented himself without leave from Tournay Barracks, Farnborough, Hants 5 Canadian Infantry Reinforcement Unit at 2359 hrs on the 27th day of November, 1943, that he is still so absent, and that on the 10th December 1943 he was deficient, and that he is still deficient of the following articles:—

ARTICLES			VALUE	ARTICLES	VALUE
BD Blouses	1	£1.3.6	£0.18.6½		
BD Trousers	1	1.4.1½	0.19.1		
Bonnets,TOS	1	0.2.8	0.2.0		
Boots,ankle,prs	1	1.4.5	0.19.3½		
Shirts,woollen	1	0.5.4½	0.4.0.		
Towels,hand	1	0.1.5.	0.1.1		
Shirts, gym	1	0.1.7	0.1.3.		
TOTALS		£4.3.1	£3.3.5.		

Signed at Tournay Barracks Farnborough, Hants

this 20th day of December 43

(E.V. Pinkham) Capt — President
The Black Watch (RHR) of Canada
5 Canadian Infantry Reinforcement Unit

(R.F. Gault) Lieut — Member
5 Canadian Infantry Reinforcement Unit

(J.M. Taylor) Lieut — Member
The Lorne Scots of Canada
5 Canadian Infantry Reinforcement Unit.

Signature of Commanding Officer

Certified true copy

Signature of Officer having custody of original record

M.F.B. 373
A.F.B. 122
2336—4-41 (750)
M.Q. 1171-9-37

E. & O.E.

COPY No.2712

No.8 CANADIAN GENERAL HOSPITAL

DEPARTMENT OF NEURO PSYCHIATRY

2.7.0 Pte Quenneville, L. - 5 CIBH
Cat A Age 26 Service 2 5/12 Enlist Sep 41
Overseas Mar 42

REPORT: 5 Feb 44

Single
Referred for S grading. Adjustment difficulties in unit.
C.C. Can't hear well, can't seem to learn well, memory is poor. Becomes depressed and lonely. "Cant stop myself going AWL. Nerves set me mad."
Family P spent several yrs in Ont Mental hosp, remains mentally
history impaired apparently vascular accidents, unstable until previously. Mother irritable, nervous. 2 sib (brothers & sisters) died TB. 2 brothers, 2 sisters alive and well. 1 brother doesnt work said to have T.B.
Past Illness Denies any but childhood disease. Denies VD pre or during service. Claims several cerebral injuries in childhood. Service Gun Shot wound in legs - Aug 42, to conv.
P.H. Born and raised in small village East Ont. Largely French Canadian. Father farmer and rented large farm and until patient was 10 years was prosperous but tended to neglect family through drinking. Patient had psycho neurotic trait Enuresis persisting in mild degree to present. Phobias, temper tantrums and recessiveness. He was incompatible with sits (brothers and sisters), hated brothers, petty thefts for which he was beaten by them. Poor educational progress couldn't remember or learn, readily confused, no interest. Poor at games, never learned to throw a ball. Socially fair, smoked early; he denies juvenile crimes, mixed poorly opposite sex. Employed in father's farm with short period of wandering and casual labour. States he operated farm after reverses in family fortunes through father's illness and mental instability; was irritable and impulsive couldnt take advice, would leave home for short periods when bothered. Didnt intend to enlist but went up for exam with friend so could get a rejection slip so could continue work on Gov't job. Was accepted.
M.H.I. Enlisted Sep 41 completed basic training with difficulty, couldnt learn or keep mind on lectures. No trouble with SAT. Employed in fatigues, few AWLs, drunks. Not dispensent-ed as stationed near home. Overseas Mar 42. 4 mons in NL. Again had difficulty with TOETs but sent to field in Jul 43. In Aug during battle inoculation wounded. He was in state of acute fear and confusion - 6 weeks in 16 CCSU. Went AWL on return to unit on suggestion of fellow. Sentenced to FP on return and immediately went AWL on completion. Has contd to go AWL. Becomes depressed, nervous, tense when in barracks. Cant control himself doesnt want to go AWL but cant resist a suggestion. When in field was also very tense restless and went AWL. Stayed in woods. He has difficulty finding female companionship states he was taken in by widow aged 45 in London and seduced, has returned there when AWL. Finds other companions, denies sexual abnormalities. Longest period AWL was 19 days Sep 43 with sentence of 28 days detention. At present waiting FCCM. At detention has become very irritable, nervous with impulses to violence. Has occasionally thought of suicide in past.
S/E Well developed and nourished stigmale inferiorly. At the exam is markedly tense, with hysterical mannerisms and reactions. Speech slurred, husky, excessive salivation. CNS neurological exam NAD. Has scarry penis, glands neg. Was readily confused emotionally. Labile affect is congruous. Rapid swings in mood. Mentally he is border line and dull memory, poor comprehension calculative poor. Judgement is poor lacks emotional control with irritability loud&vehemence. Childish tantrums. No present delusions but personality and reactions show pre-psychotic traits.

and poor interpretation readily becomes psychotic under stress.

Diag Mental Dullness with emotional instability. 0622.

Rec. Recategorized M35
Useless in any capacity and early repatriation indicated.
His medical conditions should be considered at his trial.
Unfit for detention.

R.A. Armstrong, Capt
Specialist NCMC

CERTIFIED TRUE COPY OF ORIGINAL
[illegible] Capt.

for STAFF CAPTAIN
"G" GROUP CDN. RFT UNITS

Exhibit A

WD

RECORD of the Declaration of a Court of Inquiry assembled at Tourney Barracks Farnborough, Hants on the 20th day of December 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. C.21715, Pte Quennville, L., Cameron Highlanders of Ottawa, on strength of 5 Canadian Infantry Reinforcement Unit

DECLARATION

The Court declare that No. C.21715, Pte Quennville, L., Cameron Highlanders of Ottawa, on strength of 5 Canadian Infantry Reinforcement Unit illegally absented himself without leave from Tourney Barracks, Farnborough, Hants 5 Canadian Infantry Reinforcement Unit at 2359 hrs on the 27th day of November, 1943, that he is still so absent, and that on the 10th December 1943 he was deficient, and that he is still deficient of the following articles:—

ARTICLES		VALUE	ARTICLES	VALUE
BD Blouses	1	£1.3.6	£0.18.6½	
BD Trousers	1	1.4.1½	0.19.3	
Bonnets,TOS	1	0.2.8	0.2.0	
Boots,ankle,prs	1	1.4.5	0.19.8½	
Shirts,woollen	1	0.5.4½	0.4.0.	
Towels,hand	1	0.1.5.	0.1.1	
Shirty, gym	1	0.1.7	0.1.3.	
TOTALS		£4.3.1	£3.3.5.	

Signed at Tourney Barracks Farnborough, Hants

this 20th day of December 43

Ed. Pinkham Capt President
(E.V. Pinkham) Capt
The Black Watch (RHR) of Canada
5 Canadian Infantry Reinforcement Unit

(R.H. Gault) Lieut Member
Stormont, Dundas and Glengarry Highlanders
5 Canadian Infantry Reinforcement Unit

[illegible] Member
[J.M. Taylor] Lieut
The Lorne Scots of Canada
5 Canadian Infantry Reinforcement Unit.

Signature of Commanding Officer [illegible]

Certified true copy [illegible]

Signature of Officer having custody of original record

M.F.B. 173
A.F.B. 135
SSM—6-41 (750)
H.Q. 1772-38-507

E. A. S.

Exhibit B 1157

I Certify that the man whose personal description is given below surrendered himself to* WR & SO/F Gibbs. at Paddington Green Police Station at (hour) 7.45 p.m. on the 28th day of January 1941 as being No. C21715. (Rank and Name) Private Leopold Quennevillé. a deserter ~~(or absentee without leave)~~ from 5th CIRU CHO Farnborough Hants and it appears to me from his confession that he is a deserter or absentee without leave.

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

Age 21 Height 5 Feet 8 Inches
Complexion Fair Hair Dark brown
Eyes Brown
Marks Scar wrinkle left eye.
In uniform or plain clothes Plain Clothes

Probable Date and Place of Attestation	19-7-41 Ottawa
Probable Date of Desertion or beginning of absence, and from what place	27-11-43 Farnborough Hants

Signature of Officer of Police in charge of [illegible] Station

28 [illegible] 41 Date of Signature

H. D. C.

Army Form C.1617
R.A.F. Form 1617

PART 2.

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

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

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

Statement of Expenses chargeable to Army or Air Force Funds incurred by the ..... Police in the case of No. .....

who surrendered to the Police at ..... on .....

Payable to .....

Certified that this statement of expenses is correct.

..... Superintendent or Officer in charge of Police Station at .....

Date of Signature .....

H. D. C.

IMMEDIATE.

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

PART I.

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

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

Instructions for the Guidance of the Police.

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

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

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

† Note.—Special instructions apply in war for the disposal of absentees and deserters from the Army, who surrender to the civil police; A.C.s, such personnel will be taken over from the civil authorities by the O.C. the nearest military unit or the O.C. Troops at the nearest military station. (A.C.I. 1431/1940).

(2734) W—35508/121 25,000 10/41 A & E.W.Ltd. Gp 698 Forms/O.1617/41

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Tournay Barracks, Farnborough Hants on the 31st day of January 1944, preliminary to my Court Martial.

I further acknowledge that I have been served with a true copy of the Charge under which I am being brought to Court Martial.

C.21715. Pte Bremneville
(C.21715 Pte Bremneville, L.)

Dated at Tournay Barracks
this 31st day of January 1944.

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

I desire the services of Lieut J H Patrick R H C

if he is available.

C.21715. Pte Bremneville
(C.21715 Pte Bremneville, L.)

Dated at Tournay Barracks
this 31st day of January 1944.

L. D. J.

SUMMARY OF EVIDENCE

In the case of No. C-21116, Private QUESNEVILLE, Leopold, Cameron Highlanders of Ottawa, on the strength of A Canadian Infantry Reinforcement Unit, as a reinforcement, a soldier of the Canadian Army Overseas.

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

FIRST WITNESS FOR THE PROSECUTION

Lieut. W.W. Thom, Royal Canadian Artillery, Assistant Records Officer, A Canadian Infantry Reinforcement Unit, having been duly sworn stated:

I am Lieut. W.W. Thom, Royal Canadian Artillery, Assistant Records Officer, A Canadian Infantry Reinforcement Unit. I produce a Certified True Copy of a Record of the Declaration of the Court of Inquiry which assembled at Tourney Barracks on the 20th day of December 1943 showing the accused whom I now recognize as absenting himself without leave from Tourney Barracks, Pembroke Ontario at about hours on the 11th day of December 1943. This document is marked Exhibit "A". I also produce a copy of a Record of the Declaration of the Court of Inquiry showing the accused whom I now recognize as surrendering himself to the civil authorities at Pembroke Ont., R. C. London at that prison the 30th day of January 1944, and that the time of his surrender he was wearing Plain Clothes. This document purporting to be signed by an officer of police in charge of Shepherds Bush Station, is marked Exhibit "B".

W. W. Thom Lieut.

The accused declines to cross examine this witness.

The accused, having been warned according to 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 and that the Rules of Procedure 4 (C), (D), (E), (F) and (G) have been complied with.

[signature] Lieut.
Officer detailed to take Summary of Evidence.

In the Field
31st day of January
1944.

Exhibit 'A' to D.S.C.

No C21715 Name QUENNEVILLE L. Sqn. Battery or Company | Corps CIC | Date of enlistment 19 Sep 41 | GC Badges | Service or Proficiency Pay | MFF 16 (AFB 122) 40/Pam 1 Dde 2458

Company Conduct Sheet Date of last entry in | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
	ORIGINAL sheet destroyed 19 Mar 42 on completion of six months service.								
Field	9May 42	Pte.		A.A.Sec 40-Dirty Equipment	CSM Darwin	3 days C.B.	9 May42	Lt.F.Palmer	
Field	19Jul 42	Pte.		A.A.Sec 15 (1) AWL from 2300hrs 19 Jul to 2230 hrs 21 Jul 42 (1 day 23 hrs 20 mins)	Sgt.Arnett Cpl.Moore	7 days C.B.	24Jul42	G.W.Messereau Capt.	2 days Pay 149 (1) (a)
Field	19Aug 42	Pte.		A.A.Sec 15 (1) AWL from 1200hrs to 1635 hrs 19 Aug 42.(4hrs35mins)	Pte.WalkerSS	4 days C.B.	21Aug42	G.W.Messereau Capt.	
Field	25Jan 43	Pte.		A.A.Sec 40	L/C.Cleroux	2 days C.B.	26Jan43	Lt.W.C.Baird	
Field	3Jul43	Pte.		A.A.Sec 15 (1) AWL from 2359hrs to 2200 hrs 4 Jul43(22hrs1min)	Sgt.Cleroux	7 days C.B.	5Jul43	Capt.E.C. Bradley	1 days pay 149 (1)(a)

OPTO

...re	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
[illegible]	17Sep 43	Pte.		A.A.Sec 15 (1) AWL from 2200hrs 17 Sep to apprehn. at 1000 hrs 19 Sep 43.(1 day 12 hrs)	Documentary	7 days F.P.& 7 days pay	20Sep43	Lt.Col.G.F. Clingan	2 days pay 149 (1)(a)
[illegible]	20Sep 43	Pte.		A.A.Sec 15 (1) AWL whilst a defaulter from 1330 hrs 20 Sep to 1645 hrs 8 Oct 43.(18 days 3hrs 15 mins)	CSM Darwin	28 days detn.	12 Oct43	Col.A.S. Pearson	19 days pay 149 (1) (a)

Certified true copy as taken from documents in my custody.

[illegible]
Records Officer
5 Coy Inf Bde Unit [illegible]

M.F.B. 398
22M—5-41 (979-S)
H.Q. 1772-39-626
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-21715	Pte	Guenmarlle L.	5 E R C

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, ~~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 AWL	2 times	2 times
For	times	1 times
For	times	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.~~

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. 72, Section 47 of the Army Act, and dispensations with trial under A.A. 72, are set out in the Schedule annexed to this statement.~~

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

or,

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

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in ~~Air Force~~ civil custody, and 6 days in military custody, making a total of 6 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 20 yrs 1 mo.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 19 Sep 41

7. The service which the accused is allowed to reckon towards discharge is 2 yrs. 4 mos.

8. The accused is entitled to reckon 2 yrs. 4 mos. service for the purpose of determining his pension, etc.

9. ~~The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to)~~ ~~military~~ State any air force decoration or reward. ~~military~~ C V S M 1C

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~~

Exhibit 'B' H.A.J.

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 Air Force Act, and of cases in which trial has been dispensed with of accused. Number Rank Unit of Regiment Name

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

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

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

Signed this 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.

XX-96

PTE QUESNEL, A.

SCHEDULE.

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

Accused: E11063 PTE ALBERT QUESNEL R. DE CHAUD.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec. 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 28 days F.P. beginning on (date) 1st Nov 43 (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 11 days, of which —— 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 60 days detention.

11 Dec 43. (Sgd) J.E. Anderson Major
Date awarded. President. (RP 45, 50.)
~~Judge-Advocate, if any.~~
(See back of Convening Order as to assembly and disposal of record after trial.)

Proceedings Reviewed by Staff Officer 14 Dec 43

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) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 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 53, MML p 65. Quashing after promulgation: KR Con 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:

Confirmed

~~I direct that the accused be ... (1. AA 57A. Delete if not used.)~~

Date 13 Dec 43 (Sgd) H. Blackader Brig
Commanding Confirming Officer. 8 Cdn Inf Bde.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 570, 577.)

Accused.	Date.	Signature of Offr.
E11063 pte Albert QUESNEL	14 dec 43	J.A. Bruce Capt Staff R. de Chaud

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Yes XX-96

FIELD GENERAL COURT-MARTIAL

(PAGE (in lieu of AF) W.D.P.R.H./1608 (2004))

Convened by Order of Brig K.G. Blackader Comd 8 C I B dated 10 Dec 43

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 A/appnt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appnt, A/R or A/Appnt.	Full Christian Names.	Surname.	Unit.
E11063	Pte	Albert	Quesnel	R de Chaud

Proceedings Reviewed
E.L.M. Dougall, Capt.
28 Dec 43 Reviewing Officer (J.A.G.) D.C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 11 Dec 43

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 INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Columns do NOT include all relevant fns RPs. For guidance on procedure when a variation in this form arises, see Instrs 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 AF5, 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, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(4)
(1. As to use of Summary of Evidence see RP 17 fn 4. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1042 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 elected to be tried by court-martial instead of being dealt with summarily by the CO.~~
(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to be tried by me as President?~~ Ans ~~No~~ Yes

The Interpreter is sworn.(1) ~~Do you object to be tried by me as interpreter?~~ Ans ~~No~~ Yes
The shorthand writer is sworn.(2) ~~Do you object to be tried by me as shorthand writer?~~ Ans ~~No~~ Yes
(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, waiting member retires. RP 66(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	Maj.	J.E. Anderson	N Shore R
Member	Capt.	P.A. Labracque	R de Chaud
Member	Lieut	I.S. Waldie	Q.O.R. of C.
Judge-Advocate			
Prosecutor	Capt.	M.C.M. ~~Mc~~ Gauvin	R de Chaud
Defending Offr	Lieut	A.P. Ladas	R de Chaud

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 Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 99 (B) and fn 2 were not followed. See (2).)

A8. The accused E11063 Pte Quesnel A before arraignment make(s) (no) ~~a~~ plea(s).(1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (G)), or as to the jurisdiction of the Court (RP 34, 35(A), 113), 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 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 fns to RP cited. Insert in AB rank 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 pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of insers 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 AF6 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening 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 instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).

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

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

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1] and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) or 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 pleas 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 [5]
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 25(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement on~~ The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on ~~the~~ charge(s). The accused is (are) so informed, ~~and the charge(s) to which (their) plea(s) on~~ ~~is (are) amended accordingly~~. ~~Subsection~~ Part I of the Schedule is amended accordingly.
(1. Court may be cleared 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, try such charge(s) by use of paras 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 C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate 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.[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 acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed utmost 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 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 8.)

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 A65. 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 E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.
(1. RP 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 54(3) (c), RP 45, 120(A). 2. AA 54(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. 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 ~~(ies)~~ of Conduct Sheet(s), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (a) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.[2]
(1. MFB 255 or AFB 296. 2. MFM p. 3. RP 46, KR Can 558. If absent 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. Same Extenuation D. [2]
(1. RP 37(C), 46(2). 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]
(1. AA 54(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 concurrently see RP 7(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 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 338, 330, 363-366, Overseas RO 309, 2323, MML p 60, 737-739. 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), (d)(i), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. 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.

8

C H A R G E S H E E T

The accused, E-11064 Pte Albert [redacted], 1st Bn Le Regiment de la Chaudiere, A.F., a soldier of the Canadian Army Overseas placed on active service, is charged with:-

First Charge
Army Act
Section 15 (1)

ABSENTING HIMSELF WITHOUT LEAVE,

in that he

while under close arrest, absented himself without leave from 1900 hrs on 15 November, 1943 till 1500 hrs on 30 November, 1943.

Total Absence: 14 days, 20 hours.

Signed in the field
This 4 day of December, 1943.

(PAUL MATHIEU) Lt-Col.,
Commanding,
Le Regiment de la Chaudiere, A.F.

TO BE TRIED BY F.G.C.M.

In the Field
This 9th day of December, 1943.

(K.G. BLACKADER) Brigadier,
Commanding,
8 Can Inf Bde.

FIELD GENERAL COURT-MARTIAL

CFAO (In lieu of AFAS) 40/FA&T/1697 (2nd)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate 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 181, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-11063	Pte		Albert	QUESNEL	R de Chaud

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) 9 Dec 43 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 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.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	J E Anderson	N Shore R

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	P A Labracque	R de Chaud
Lt	I S Weldie	QOR of C

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	E T Gorman	N Shore R

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 fn 2.) Brig (Rank.)

Date 10 Dec 43

Commanding 8 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

LE REGIMENT DE LA CHAUDIERE

Date: 13 Dec 1942

This is to certify that I have this morning examined the s/m soldier and in my opinion he is fit to undergo trial by Court Martial.

Regt'l No. E 11063 Rank PTE Name Quesnel A.

Capt. J.J. Albert, M.D.C
M.O. Le Regiment de la Chaudiere

Exhibit D

F 3 Defence – Addrss & Concl.

Defence has no intention of making any speech but only wish to draw to the attention of the Court the excellent record of the accused. The accused had been an N.C.O. and in the army since 1939. During that time he had served in the I see and also as an instructor at OCTU. It was only during the time the accused was at a Landing unit that the entries shown on his MFM 6 were made. When the accused had been with his own unit he had never been in any trouble.

Ex Exhibit A.

SUMMARY OF EVIDENCE

In the case of E-11063 Pte Albert QUESNEL, 1st Bn Le Regiment de la Chaudiere A.F. a soldier of the Canadian Army, placed On Active service

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

1st WITNESS — E-9375 Pte Doyle A. Le Regiment de la Chaudiere A.F. having been duly sworn states:
I am E-9375 Pte Doyle A. Le Regiment de la Chaudiere A.F.
On the 15 Nov 43 I was escort for Pte Quesnel A. at about 1000 hrs, the accused asked me to go to toilet room. I went with him, but the toilet room was too small to go with him in, so I stayed at the door. I heard a noise then I opened the door and Pte Quesnel was gone and the window open. I advised immediately L/Cpl Caron G.

The accused declines to cross-examine the witness.

Doyle A
E-9375 Pte Doyle A.
Le Regiment de la Chaudiere

2nd WITNESS — E-10306 L/Cpl Caron G. Le Regiment de la Chaudiere A.F. having been duly sworn states:
I am E-10306 L/Cpl Caron G. Le Regiment de la Chaudiere A.F.
On the evening of 15 Nov 43, I was in charge of the guard and at about 1900 hrs Pte Doyle who was escort for Pte Quesnel A. reported me that the accused had deserted.
I went around the house and did not find Pte Quesnel A.
Then I advised the Orderly Sergeant.

The accused declines to cross-examine the witness

E-10306 L/Cpl Caron G.
Le Regiment de la Chaudiere .

3rd WITNESS — E-13099 A/Sgt Gagnon R. Le Regiment de la Chaudiere A.F. having been duly sworn states:
I am E-13099 A/Sgt Gagnon R. Le Regiment de la Chaudiere A.F.
On the 30 Nov 43 at about 1530 hrs, Pte Quesnel A. reported to me and he was sober and properly dressed

The accused declines to cross-examine the witness.

A/Sgt R. Gagnon
E-13099 A/Sgt Gagnon R.

4th WITNESS — E-13184 A/CSM Lavoie A. Le Regiment de la Chaudiere A.F. having been duly sworn states:
I am E-13184 A/CSM Lavoie A. Le Regiment de la Chaudiere A.F.
From 1900 hrs 15 Nov 43 till 1500 hrs 30 Nov 43, I never saw E-11063 Pte Quesnel A. in "C" Coy Lines or anywhere else.

The accused declines to cross-examine the witness.

E-13184 A/CSM Lavoie A.

Question to the accused:

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 do so, but whatever you say or anything you give will be taken down in writing and may be given in evidence.

Answer: NO

The accused does not call any witness for the Defence.

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

Pierre Valtin Lieut.
Le Regiment de la Chaudiere C.F.

In the Field
2 Dec 45

Exhibit C

No. 11063 Name [redacted] A. Sqn, Battery, or Company: — Corps: Infantry — Date of enlistment: 30 Oct 39 — Badges: — Service or Proficiency Pay: [redacted] — AFM 5 (Revised) (Superseding AFM 122) (Revised 1936) (Reprinted 1938)

Date of last entry in Company Conduct Sheet: 8 11 — No and date of last drunk: 8 11 — Period not reckoning towards freedom from extra fine: — Sheet No: 1 — Signature OC Company, etc: — Character: —

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order suspending with title	By whom awarded	Remarks
Previous Sheet Restored 18 Oct 43 on completing 2 years without Conduct									
Field	14-8-42	Cpl		A.W.L. 1500hrs 14 Aug 42 till 2300hrs 17 Aug 42 (3 days 8hrs) Sec 15 (1) AA		Reprimanded	14 Aug 42		Forf 4 dys Pay
Field	10-10-43	Cpl		A.A. 15(1) AWL 2359hrs 10 Oct 43 till 0945hrs 11 Oct 43 (9hrs 45 mins)		Severely reprimanded	12 Oct 43	Lt-Col Ascheresu	Forf 1 dy's pay
Field	18-10-43	"		A.A. 15(1) AWL 0800 hrs 18 Oct 43 till 0845hrs 18 Oct 43 (45 mins)	CSM Pigeon Con Documentary	Severe reprimand	20 Oct 43	Lt Col Ascheresu	Forf 3 dys pay
Field	24-10-43	Pte		A.A. 15(1) AWL 0630hrs 24 Oct 43 till 1700hrs 25 Oct 43 (2 days 10 hrs 30 mins)	Col Simard	14 days CB	26 Oct 43	Lt Col Ascheresu	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	12-11-43	Pte		A A sec 15 (1) AA 2230hrs till 2330hrs 12 Nov 43 (1 hour)	Sgt Pope L/Cpl Desbiens Sgt Letendre	7 days C.B.	15 Nov 43	Lt. Rousseau	
Field	13-11-43	Pte		A.O.A.S. an act to the prejudice etc. in that he in the field at about 2145hrs 13 Nov 43 caused trouble in a public house damaging civil property for the amount of £0-5-6	E-13144 L/Cpl Cabot H.	28 days F.P. 28 days Pay F.R.&I 149(2)	15 Nov 43	Lt Col F. Mathieu	orf 28 days pay F R&I 149(1)(a)

Certified True Copy

P. Boucher Lieut a/c

(F. Mathieu) Lt Col.,
Commanding
Le Régiment de la Chaudière

R. de Chaud
18 December 1943

For the Court

Exhibit B

JCB

M.F.B. 355
22M.—5-41 (572-0)
H.Q. 1772-99-020
A.F.B. 396

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E 11063	pte	Albert GUESNEL	Chaudière

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

	Within last 12 months	Since enlistment or appointment
For	AA sec 15(1) four times	AA sec 15(1) - five times
For	AA sec 40 - one time	AA sec 40 - one time
For	~~times~~	~~times~~ JAB
For	~~times~~	~~times~~ JAB

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

or,

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

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. 78 ~~Section 47 of the Army Act and dispensations with trial under A.A. 75 are set out in the Schedule annexed to this statement~~ JAB

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

or,

The accused at the present time is under sentence for 21 days Forfeiture of Pay 21 days Field Punishment No 2 AA Sec 40 beginning on the 15 day of Nov 43

4. The accused has been in confinement awaiting trial on the present charges, for 110 days in civil custody, and ~~70 11~~ JAB ~~days~~ JAB days in military custody, making a total of ~~days~~ days in custody, of which ~~days~~ days were spent in hospital.

5. The present age of the accused according to his record of service is 25 years 1 months 2 weeks ~~Attestation paper~~ JAB

6. The date of his ~~attestation~~ JAB specified in his record of service is 10 oct 1939 ~~Attestation paper~~

7. The service which the accused is allowed to reckon towards discharge is 4 years 2 months

8. The accused is entitled to reckon 4 years 2 months service for the purpose of determining his pension, etc.

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

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force~~ JAB ~~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 GPB, 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. GPB

In the rank of years.

In the rank of years.

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

SCHEDULE

Air Force

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

Name of Regiment

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

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

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody. D. Boucher Lieut, a/S.F.O. R. to Chan

Signed this Eleventh day of December 1943

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

5 B 116

Pl. Rachelle J.

SCHEDULE.

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

Accused: B/155138 Pte Jerome QUESNELLE, 8 CDJR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 11	Not Guilty	Guilty	
2nd AA 40	Guilty	Guilty	
3rd AA 42	Guilty	Guilty	
4th			
5th	- Nil -		
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 463 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for NOT (1) beginning on (date) .....

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

Time in confinement awaiting present trial—a total of Nil days, of which Nil 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 Thirty (30) days and to forfeit under stoppages of pay until he has made good the sum of $5-5-8½, a portion of the Cost of the proceedings.

(Sgd) ..... Judge-Advocate, if any.

16 Mar 45 Date awarded.

(Sgd) John Mucci President. (RP 45, 50.) Major

(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) 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(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 32, 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 fn 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) Gwd

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

(Sgd) C.W. Hordern Brig

Date 18 Mar 45 Commanding Comd. 14 Canadian Brigade.

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

Accused.	Date.	Signature of Offr.
B155138 Pte Jerome QUESNELLE	Promulgated 19 Mar 45	(A.E. Wiley) Capt
	Published D.O. No. 47 d/20 Mar 45	Adj. Dep Bn 8 Cdn Inf Trg Regt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 2 MAR 1945 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 166-5-8-116

FIELD GENERAL COURT-MARTIAL

(PAGE (1) (less of APAR) 40-P.A.B. (1944) (7144))

4/38B

Convened by Orders of Comd 14 Cdn Inf Trg Bde dated 16 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 41, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt. A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt. A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B/155138	Private	Jerome	QUESNELLE,	8 Cdn Inf Trg Regt

PROCEEDINGS REVIEWED 28 Mar 45 Quarter Capt. REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 16 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant 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 such variation will be made and given a number having reference to observations or proceeding para number herein. See back of Convening Order, CF 885, for oaths and instrs on how to record addresses, and p 885, which items are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 62-70, 73, 74, 84, 103, 119, 120.)

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 each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 22, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1030 hours trial commences.

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

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

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

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans 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, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, 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	E.M. Mucci E.D.R.C.	8 C.D.J.R.
Member	Capt	D.R. Morgan	7 C.D.J.R.
Member	Lieut	J.M. Brown	6 C.D.J.R.
~~Judge-Advocate~~			
Prosecutor	Captain	J.E. McConnell	8 C.D.J.R.
Defending Offr	~~Lieutenant~~ Major	A.B. Pollock	8 C.D.J.R.

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 Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 64 (A) and fn 2 were not followed. See D1 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), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to attend trial (AA 136, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addressers made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) ~~separately~~ arraigned 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 pleas in Part I of the Schedule.

(1. RP 36, 112. See para 1 of Instrs 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 A66 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D ~~C~~ 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 authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

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

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

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

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

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

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as 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 102; duty of Prosecutor see RP 60(A) (E); 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 85-86; 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 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 .(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3 para 3, MML p 54 para 47.* 4. *See para 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 (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 matter.* 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 ....., 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 paras 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 C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate 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 .(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(C) (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 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. May Rely on oath .....
Ans. NO ..... 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 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 7, 86(C). Note the further opportunity in para E2 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 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) and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (8), RP 45, 120(A).* 2. *AA 54(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. Called a 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 5. 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 C and Ex D respectively.(3)
(1. *MFB 355 or AFB 294.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 3 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 ~~&~~(2) Ans. Throw my Self on Offr .....(3)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to make 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)
(1. *AA 54(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 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, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, 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 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. 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.

CHARGE SHEET

The accused, B155138 Private Jerome QUESNELLE, Canadian Infantry Corps, on the strength of No 8 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE — WHILE ON ACTIVE SERVICE, Neglecting to obey Camp Standing Orders,

Section 11 Army Act

in that he,

In the Field, on 25 February 1945, neglected to obey Paragraph 4 of 8 Cdn Inf Trg Regt Camp Standing Orders by being in Brighton, Sussex, a distance greater than five miles from 8 Cdn Inf Trg Regt, contrary to Paragraph 4 of 8 Cdn Inf Trg Regt Camp Standing Orders.

SECOND CHARGE — WHILE ON ACTIVE SERVICE, Conduct to the Prejudice of Good Order and Military Discipline,

Section 40 Army Act

in that he,

In the Field, on 25 February 1945, improperly and without authority took and used Canadian Army Vehicle Number CM 4230994, thereby occasioning damage to the said vehicle to the extent of £8-0-7½, and a loss to the Public of £0-1-6, the value of petrol consumed.

THIRD CHARGE — WHILE ON ACTIVE SERVICE, Conduct to the Prejudice of Good Order and Military Discipline,

Section 40 Army Act

in that he,

In the Field, on 25 February 1945, improperly and without authority took and used Canadian Army Vehicle Number CM 4230994, thereby causing injuries to B41924 Pte Roberts, M.A. and D131578 Pte Cookman, T.H. of 8 Cdn Inf Trg Regt, the said injuries resulting in hospitalization and ambulance services in the amount of £7-15-0.

(F.M. Mitchell) Lt Col
A/Commander
8 Cdn Inf Trg Regt.

IN THE FIELD
13 March 1945

To be tried by Field General Court Martial.

(J B Weir) Col
A/Comd
14 Cdn Inf Trg Bde

In the field
16 Mar 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see NML 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/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
H105186	Private		Jerome	CURRETTE	C Can Inf Trg Bde

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) 27 Dec 44 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.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	Ian Miller	[illegible]

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by OC	[illegible]
Lieutenant	to be detailed by OC	[illegible]

WAITING MEMBER.

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

JUDGE ADVOCATE.

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

On Active Service in the Fd

in [illegible] (Country.)

Dat: 16 Mar 45

(Signed personally. RP 105 fn 2.)

(Rank.)

Commanding [illegible] (Command Officer.)

A Comd HQ, 14 Cdn Inf Trg Bde

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CPA 98 (In lieu of AFA S) 40/P & S/1887 (S1443)

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

Medical Officer's Certificate
K.R.(Can), Form 597

I certify that I have this morning examined No: B156138
Pte Quennell T.A. of Can Inf Corps A.P.O. Inf. Tps. East
and in my opinion, he is fit to undergo trial by Court Martial.
Station In the Field
Date 10 Mar 45 (Sgd) (Medical officer)

(Canadian Reinforcement Units Routine Order No. 3 para 27, 2/6 Jan 44)

CASE OF

D-3 B-155158 Private QUESNELLE, J. 8 CITR

FIRST CHARGE

FIRST WITNESS

B-41924, Pte ROBERTS, M.E., 8 CITR, sworn, states:-

COURT TO WITNESS

The Court is informed that you have been charged in connection with an incident that occurred at the time of the offence for which the accused here stands charged. I will, therefore, read you para 95 of Chap 6 of the KML.

PROS OFFR

Q. Do you know the accused?
A. Yes, Sir.

Q. What do you do in this camp here?
A. I am a DR.

Q. Do you know if the accused was in Brighton on 25 Feb 45?
A. Yes, Sir.

Q. Do you know if the accused had a pass to be in Brighton?
A. No I don't, Sir.

Q. How do you know the accused was in Brighton?
A. I saw him there, Sir.

Q. Did you see the Camp Standing Order placing Brighton out-of-bounds?
A. No, I have not, Sir.

CROSS-EXAMINED

Q. How long have you been in this camp?
A. About three months, Sir.

Q. Have damp Standing Orders been read to you?
A. No, Sir, they have not.

Q. Have extracts of Camp Standing Orders, covering "Bounds", been read to you?
A. No, Sir.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 85 (B).

SECOND WITNESS

D-131578, Pte COCKRAM, T.H., 8 CITR, sworn, states:-

COURT TO WITNESS

The Court is informed that you are under charge in connection with an incident that occured at the time of the offence for which the accused now stands charged. I will, therefore, read you para 95 of Chap 6 of KML.

PROS OFFR

Q. What do you do in this camp?
A. I'm Dvr IC.

Q. Do you know the accused?
A. Yes, Sir.

Q. Did you see him in Brighton on the 25 Feb 45?
A. Yes, Sir.

Q. Have you seen a copy of Camp Standing Orders?
A. No, Sir.

Q. Did you know if the accused had a pass that day?
A. No, Sir, I couldn't say.

CROSS-EXAMINED

Q. How long have you been in this camp?
A. Going on two months.

Q. During that time, have Camp Standing Orders been read to you?
A. No, Sir.

Q. Have extracts of Camp Standing Orders, covering "Bounds", been read to you?
A. No, Sir.

Q. Has your attention been drawn to Camp Standing Orders so you would read them?
A. No, Sir.

Q. Are you aware of the contents of Camp Standing Orders?
A. No, Sir.

QUESTIONS BY THE COURT

Q. Are Camp Standing Orders posted in this camp?
A. Possibly, but not in transport.

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

THIRD WITNESS

Q. Major M.D. YEARWOOD, 8 CITR, sworn, states:-

Q. Do you know the accused?
A. Yes, Sir.

Q. Around the 25 Feb 45, what was your posn in this camp?
A. I was 2 IC of Ie Bn, 8 CITR.

Q. What was your connection with the accused at that time?
A. The Jeep that he drove was my personal vehicle. He was my dvr.

Q. Who normally signed passes for the accused?
A. Usually myself or the Adjutant.

Q. If the accused had a pass would you know about it?
A. I should. I think I would.

Q. On the 25 Feb did the accused have a pass from you or to your knowledge did he have a pass?
A. No, not to my knowledge.

Q. Did you detail the accused to go to Brighton?
A. No, Sir.

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

FOURTH WITNESS

Capt R.D. McGILLIVRAY, 8 CITR, sworn, states:-

Q. What is your posn in this camp?
A. Coy Comd.

Q. Do you know the accused?
A. Yes.

Q. What is your connection with the accused?
A. He was at that time under me. As a dvr he is attached to tpt but he is on my strength.

Q. Who would normally issue a pass to the accused?
A. Myself and the 2 IC.

Q. On the 25 Feb did the accused have a pass from your coy?
A. Not to my knowledge.

Q. Did you detail him to go to Brighton?
A. No.

Q. Have you a copy of Camp Standing Orders?
A. I have.

Q. Are they posted?
A. They are posted in the coy office. We only have one copy.

Q. You have stated that a copy of Camp Standing Orders are posted in the Coy office?
A. Yes.

Q. Your coy office is available to any rank at all times?
A. Yes, Sir.

Q. What other steps did you take?
A. I didn't take any step in particular. All the men have been attached to other coys and camp standing orders have been read before them. The posn of this HQ Coy is very hard. All the personnel are on the admn and it is very hard to get a muster parade.

Q. Can you state definitely that the accused had had Camp Standing Orders read to him.
A. I cannot, Sir.

Q. It is possible that he could not have had them read to him?
A. Yes, Sir.

Q. Was he frequently in your coy orderly rm?
A. No, Sir, not frequently, just once in awhile. He was attached at the Bn Orderly Rm. He was the 2 IC Dvr.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 85 (B).

FIFTH WITNESS

Lt D.M. Smith, 8 CITR, sworn, states:-

Q. What is your posn in this camp?
A. Asst Admn Offr, 8 CITR.

Q. Have you Camp Standing Orders for this camp?
A. Yes. I produce Camp Standing Orders for 8 CITR.

PROS OFFR

I tender these orders as evidence;

DEF OFFR

I have no objection.

(Marked Ex "A").

QUESTIONS BY THE COURT

Q. Did you know when and where these orders were posted?
A. They were distributed to the three bns and also to the unit NAAFI. I know they were posted in the unit NAAFI as I posted them there myself in Jan.

Q. Are they still there in the NAAFI?
A. To the best of my knowledge, they are, Sir.

Q. How are they posted?
A. I posted one copy in each of the rooms the men frequent and one on the notice board.

WITNESS TO THE COURT

This is my office copy (ref to Ex "A") and I would like it back.

(NOTE - Under KR (Can) 560, a copy, having been compared with the original and found to be correct as to para. 4, "BOUNDS", is attached to the proceedings as Ex. "A").

CROSS-EXAMINED

Q. You posted this order (pointing to Ex A)?
A. Yes, I posted copies of this order.

Q. Are they marked as Camp Standing Orders in such a way that they can be recognized as such?
A. Yes, Sir.

Q. They are still there?
A. Yes, Sir, to the best of my knowledge.

QUESTIONS BY THE COURT

Q. Have they been there continuously?
A. Yes, as far as I know.

Q. When did you last see the copies you posted in the NAAFI?
A. I saw them there about two weeks ago.

Q. Has 8 CITR a notice board for the posting of Daily orders?
A. Yes, Sir, there is one in front of the kitchen on the main road.

Q. Were Camp Standing Orders posted there?
A. No., Sir.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RE as (B).

DEF OFFR

The defence wish to move that no case has been established. The charge is laid under Sec 11; the foot-note on Sec 11 states that evidence must be given to show that the order was duly posted and brought to the notice of the accused. Evidence has not been produced to show that this was complied with. There is also no positive evidence that he didn't have a pass.

STATEMENT BY THE PROS OFFR ON THE FINDINGS

I would like to make a motion that this charge has been substantiated. First of all I would suggest that we have positive proof that the

..... 5/

accused did not have a pass. We have the evidence of his Coy Comd and also the evidence of the 2 IC of 16 Bn for whom the accused drove, that neither one of these offrs gave him a pass nor was there any pass forthcoming from his coy. I believe their evidence also stated that these were the only two sources from which the accused could have obtained a pass.
They stated that he didn't get a pass from them to go to Brighton on the 25 Feb 45. Now from the foot-note, under Sec 11 of the AA (he reads further) he was in no position at any time to be made acquainted with the orders. We have the evidence from the Assistant Admn Offr that copies of Camp Standing Orders were posted on notice boards in the two recreational huts belonging to the NAAFI. I suggest that in such a place the accused would have had ample opportunity of seeing them there. I further think that it is common knowledge that there is a five mile limit in this area outside of which no ORs may pass without a pass from authorities. I was somewhat hampered by the regulations and I felt that I could not want to ask the two witness any further question as they were charged with similar charges due to the fact that they could incriminate themselves. The contents of the first part of para 4 of Camp Standing Orders state that no OR shall be outside the five mile limit of this camp without a pass. In view of the fact that he was in Brighton on the 25 Feb 45, in view of the fact that the Camp Standing Orders were publicly posted in the NAAFI Recreation Rooms, that he has in fact committed an act which is contrary to Sec 11 of the AA, this charge is substantiated.

The accused, sworn, states:-

EXAMINED

Q. Did you ever see the Camp Standing Orders?
A. No, Sir.

Q. Were Standing Orders read to you at any time?
A. No, Sir.

Q. It has been given in evidence that Standing Orders were posted in the NAAFI Recreation Rooms, have you been in there?
A. I was in there a couple of times. I never noticed the orders. I was never there long enough.

Q. What was the nature of your employment?
A. I was a Dvr for Major Yearwod. I also drove for the ORm and the QM Stores.

Q. In other words you were employed as DR when not employed by Major Yearwod?
A. Yes, Sir.

Q. Did this leave you much freedom?
A. No, Sir, a few times I missed my meals.

Q. Were copies of Standing Orders posted in your quarters?
A. No, Sir.

Q. Have the limits or bounds been explained by any of your offr?
A. No, Sir.

Q. Were you aware of the 5-mile limit?
A. No, Sir. I had no idea at all if I was out-of-bounds.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 95 (B).

CROSS-EXAMINED

Q. How long have you been in this camp?
A. Since the16 Jan 45.

Q. Did you have a pass on Sun 25 Feb 45?
A. No, Sir.

Q. Were you in Brighton on Sun 25 Feb 45?
A. Yes, Sir.

Q. Did anybody ever explain to you that there was a five-mile bounds?
A. No, Sir, I was never explained that.

QUESTIONS BY THE COURT

Q. How long have you been in the Army?
A. 8½ years.

Q. Did you ever see daily orders?
A. Yes, Sir.

Q. Where were they posted?
A. In the huts.

Q. Were copies of Standing Orders posted there in S CITR?
A. No, Sir.

Q. Daily orders were posted in the hut?
A. No, Sir.

Q. Where were theyposted?
A. I've never seen them posted but I delivered them around.

Q. Where did you deliver them?
A. In the Bn ORm, Sir.

Q. Were they posted there?
A. Yes, Sir.

Q. Were there any Standing Orders posted where the other orders were posted?
A. No, Sir.

Q. As Dvr, did you ever drive more than five miles?
A. Yes, Sir.

Q. Were you given a pass?
A. No, Sir.

Q. Were you told when you were sent out more than five miles if you that required a pass.
A. I never had a pass, Sir.

Q. Were you ever accompanied by an officer more than five miles?
A. Yes, Sir.

Q. Was anything said about a pass?
A. No, Sir.

QUESTION BY THE PROS OFFR

Q. When you were in Brighton, were you on duty?
A. No, Sir.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 95 (B).

STATEMENT BY THE DEFENDING OFFICER ON THE FINDINGS

There is very little to say at this point and it has practically all been said before. The evidence would indicate that the Camp Standing Orders had not been read to the accused and that in being beyond the five-mile limit, he was inadvertently or without his knowledge committing the offence under the act. The defence is based on the circumstances of the orders not having been read or sufficiently promulgated to put him in a posn to be acquainted with them.

CASE OF

E-1 B-155138 Private QUESNELLE, J. 8 CITR

CHARACTER WITNESS
~~FIRST WITNESS~~

Major M.D. YEARWOD, 8 CITR, sworn, states:-

I know the accused quite well. He has always appeared to be a very good man, conscientious driver, prompt, confident and I never had any trouble with him in any way. I was very much surprised when my Jeep was reported missing in this particular instance. I have known him roughly two months. I talked to some of the Senior Officers of his own unit as to his character before we accepted him as a driver. They gave me a very good recommendation of him, which was one of the reasons why I took him on as my dvr. Up to this instance, he bore out that character.

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

PLEA IN MITIGATION OF SENTENCE

I would like to impress upon the Court that it is an error on the part of the accused more in a thoughtless nature. The evidence as to his character and his service I think bears that out. It is possible that he was led astray and he relied on his offr to draw his attn to the orders instead of as a more experienced man would do, read them himself. The only thing that can be said about his taking the vehicle is that during the period of time that he was a dvr of that vehicle he was used extensively in quite a variety of duties under a number of different offrs. It is quite normal under such circumstances that the dvr of the vehicle or any person in charge of eqpt or stores should get the feeling that he is held responsible for the vehicle or the stores and more or less left to his own discretion in that matter. Offences of this nature seldom occur except under such circumstances.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B155138 Private Jerome QUESNELLE, Canadian Infantry Corps, on the strength of No 8 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

For the Prosecution

B41924 Pte Roberts, M.A., Cdn Inf Corps, on the strength of No 8 Cdn Inf Trg Regt, a soldier of the Canadian Army Overseas, having been duly sworn, states:

I am B41924 Pte Roberts, M.A., and am a Despatch Rider on the strength of 8 Cdn Inf Trg Regt. On 25 Feb 45 at about 1400 hrs, after some discussion, I with Pte Quesnelle and Pte Cockman proceeded to Brighton in a Military 5 Cwt No CM 4230994. Pte Quesnelle, the accused, whom I now recognize, was driving the jeep. After spending part of the afternoon and evening in Brighton we left for Horsham at about 2200 hrs. We were traveling at approximately 35 miles per hour and I had occasion to tell the accused to slow down as there was a sharp bend ahead. On doing so, bright lights of an oncoming vehicle blinded the driver of the jeep and he did not see the bend. We went off the road on the left and I was thrown out of the jeep and landed on a boulder in a field and injured my back. We were picked up by some civilians from a nearby house and they treated us for scratches, bruises and shock and put a splint on me to keep me rigid, thinking I may have broken my back. Some-one called an ambulance which came and I was taken to Sussex County Hospital in Brighton. They took X-Rays and sent me to No 13 Cdn General Hospital at Cuckfield where they took six more X-Rays and found slight concussion to the hip. They discharged me from hospital on 3 Mar 1945.

(B41924 Pte Roberts, M.A.)

The accused declines to cross-examine this witness.

SECOND WITNESS

For the Prosecution

D131578 Pte Cockman, T.H., Cdn Inf Corps, on the strength of No 8 Cdn Inf Trg Regt, a soldier of the Canadian Army Overseas, having been duly sworn, states:

I am D131578 Pte Cockman, T.H. and am a Driver i/c on the strength of 8 Cdn Inf Trg Regt. On 25 Feb 45 after some discussion, Pte Quesnelle, the accused whom I now recognize, Pte Roberts and myself left for Brighton at approximately 1500 hrs in a Military 5 Cwt No. CM 4230994. We spent the afternoon and evening in Brighton and left at approximately 2200 hrs for Horsham. About seven miles out of Brighton Pte Roberts mentioned a turn in the road to the accused, who was driving. The lights of an oncoming vehicle blinded the accused and we were part way across the intersection before noticing it. We swung hard to the right in an effort to make the turn, but hit the curb on the left side of the road, ran up along the shoulder for some distance and finally ran into the ditch. The approximate speed of our vehicle was 35 miles per hour.

SECOND WITNESS (continued) For the Prosecution

I was taken by a civilian ambulance to Sussex County Hospital and removed next day to No 13 Canadian General Hospital and was discharged on 3 March 1945.

T.H. Cockman

(D131578 Pte Cockman, T.H.)

The accused declines to cross-examine this witness.

THIRD WITNESS

For the Prosecution

Major D.M. Yearwood, Cdn Inf Corps, on the strength of No 8 Cdn Inf Trg Regt, an Officer of the Canadian Army Overseas, having been duly sworn, states:

I am Major D.M. Yearwood, and am 2 i/c of 16 Cdn Inf Trg Bn, No 8 Cdn Inf Trg Regt. Military Vehicle No. CM 4230994 is on charge to 16 Cdn Inf Trg Bn, 8 Cdn Inf Trg Regt, for the use of the 2 i/c. All authorized journeys for that vehicle were usually signed by myself, or by the Adjutant or Quarter Master if they were using it, but only with my permission. The permanent driver of this vehicle is Pte Quesnelle, the accused, whom I now recognize, a member of 16 Cdn Inf Trg Bn and he comes under me for duty and passes.

On 25 Feb 1945 during the afternoon and evening I was not using this vehicle and I did not authorize it to make a trip to Brighton or anywhere else, nor did any other person request the use of this vehicle from me. I did not give the accused any pass to go anywhere on 25 Feb 1945.

D.M. Yearwood Major

(D.M. Yearwood) Major.

The accused declines to cross-examine this witness.

FOURTH WITNESS

For the Prosecution

Capt. R.D. MacGillivray, P.E.I. Highlanders, on the strength of No 8 Cdn Inf Trg Regt, an Officer of the Canadian Army Overseas, having been duly sworn, states:

I am Capt. R.D. MacGillivray, OC HQ Coy, 16 Cdn Inf Trg Bn, 8 Cdn Inf Trg Regt. Pte Quesnelle, the accused, whom I now recognize, is a driver i/c on the strength of HQ Coy, 16 Cdn Inf Trg Bn, 8 Cdn Inf Trg Regt. He was not issued with a pass for anywhere on 25 Feb 1945 from this Company.

R.D. MacGillivray Capt

(R.D. MacGillivray) Capt.

The accused declines to cross-examine this witness.

FIFTH WITNESS

For the Prosecution

Lieut J.P.G. Gordon, RCEME, on the strength of #124 L.A.D. (RCEME), an Officer of the Canadian Army Overseas, having been duly sworn, states:

I am Lieut J.P.G. Gordon, and am OC of #124 L.A.D. (RCEME). I herewith present a statement, marked Exhibit "A" which shows the extent and value of damages to Military Vehicle No CL 4230994 Cars 5 cwt, which were incurred on the Brighton-Horsham road on 25 Feb 45. The cost of repairs will be £8-0-7½. The statement also shows the amount and value, £0-1-6, of petrol used by this vehicle, while proceeding from Horsham to Brighton and return to the scene of the Accident. It is approximately 20 miles from 8 Cdn Inf Trg Regt to Brighton.

(J.P.G. Gordon) Lieut

The accused declines to cross-examine this witness.

SIXTH WITNESS

For the Prosecution

Lieut D.M. Smith, North Nova Scotia Highlanders, on the strength of No 8 Cdn Inf Trg Regt, an Officer of the Canadian Army Overseas, having been duly sworn, states:

I am Lieut D.M. Smith, North Nova Scotia Highlanders, and am Assistant Administrative Officer of 8 Cdn Inf Trg Regt. I herewith present a statement, marked Exhibit "B" from the Royal Sussex County Hospital which shows the cost of hospitalization for one day for treatment to B41924 Pte Roberts, M.A., £0-12-6. I herewith present a statement, marked Exhibit "C" from 13 Cdn Gen Hospital which shows the cost of hospitalization for five days for treatment to B41924 Pte Roberts, M.A., £2-10-0. I herewith present a statement, marked Exhibit "D" from the Royal County Sussex Hospital which shows the cost of hospitalization for one day for treatment to D131578 Pte Cockman, T., £0-12-6. I herewith present a statement, marked Exhibit "E" from 13 Cdn Gen Hospital which shows the cost of hospitalization for five days for treatment to D131578 Pte Cockman, T., £2-10-0. I herewith present, marked Exhibit "F", Certified True Copy of a bill presented by Henfield & District Ambulance Club for services in removing D131578 Pte Cockman, T. and B41924 Pte Roberts, M.A. from the scene of an accident at Paynings Crossroads to Royal Sussex County Hospital, Brighton on 25 Feb 1945, in the amount of £1-10-0.

SIXTH WITNESS (continued) For the Prosecution

The total cost of hospitalization and ambulance services to Pte Roberts and Pte Cockman amounts to £7-15-0. I also produce the following document pursuant to Overseas RO 5352 which has been read over and shown to the accused, and which is attached hereto as Exhibit "G", Certified True Extract from 8 Cdn Inf Trg Regt Standing Orders, which defines the area "IN BOUNDS" to other ranks of 8 Cdn Inf Trg Regt.

(D.M. Smith) Lieut

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 FOUR 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.

(F.E. Scammell) Capt
Officer Detailed to take Summary

IN THE FIELD
13 March 1945

EXHIBIT "A"

NO.124 LIGHT AID DETACHMENT (RCEME)

LAD/853-4-4
c/o # 8 C.I.T.R.
12 Mar 45

TO WHOM IT MAY CONCERN:

Report re damage CL-4230994 Cars 5 cwt.

1. Herewith a report on the damage to the above cars 5 cwt sent to this Unit for repair.

Damaged Unit	Approx. Cost
A-809 Left Front Axle	2/10/ 0
A-1496 Brake Drum Assy.	2/ 5/ 0
A-612 Left Front Spring	1/ 7/ 0
A-2478 Left Windshield	0/18/ 7½
Total Cost of Replacement Parts	6/19/ 7½
Hours spent in repair 7	
Cost per hour 1 shillings	
Cost of Labour	0/ 7/ 0
Total cost of Repair	7/ 0/ 7½

2.

Distance travelled approx. 23 miles
Gasoline used 1½ gals.
Approx. cost 18 pence

3. For your information.

JPGG/LC

(J.P.G. Gordon) Lieut.
O.C. #124 L.A.D. (RCEME)
Cdn Army Overseas

Exhibit "B"

Telephone: BRIGHTON 4381 (5 lines)
Telegraphic Address
"HEALTH" PHONE, BRIGHTON
L. L. W. LANCASTER-GAYE, F.C.C.S., F.H.A.
Secretary-Superintendent.

The Royal
Sussex County Hospital,
Brighton 7.

MEMORANDUM.

12th March 194 5

The Officer Commanding,
8 C.I.T.R.
Canadian Army.

	£	s.	d.
Contribution towards cost of treatment of No. D - 41924 Pte. ROBERTS. MARTIN. from - to - - - being weeks days at the rate of - per week 1 Day's Maintenance on the 26th February 1945.			
£		12	6

With the Secretary-Superintendent's Compliments.

Ursula Asbridge

W7

EXHIBIT "C"

"13 CANADIAN GENERAL HOSPITAL"
B. E. A. M. G.

281/1/9-1

12 MAR 45

Officer Commanding,
8 C.I.T.R.

D.41924 Pte. Roberts, H.A.

1. The marginally named soldier was admitted to 13 Cdn General Hospital on 26 Feb 45, and discharged on 3 Mar 45 making total hospital days 5.

2. Charge in military hospitals is 10/- per day. Total hospitalisation : 5 days @ 10/- per day making a total of £2:10:0.

Major-Registrar,
for Commanding Officer.

HPD/pb

Exhibit "D"

Telephone: BRIGHTON 4281 (5 lines)
Telegraphic Address
"HEALTH" PHONE BRIGHTON.
L. L. W. LANCASTER-GAYE, F.C.S., F.H.A.
Secretary-Superintendent.

The Royal
Sussex County Hospital,
Brighton 7.

MEMORANDUM.

12th March 194 5

The Officer Commanding,

8 C.E.T.R.

Canadian Army.

	£	s.	d.
Contribution towards cost of treatment of No. D - 131578 Pte. COCHRAN, THOMAS. *from* - *to* - - - *being* weeks days *at the rate of* - *per week* 1 day's Maintenance on the 26th February 1945.			
£		12	6

With the Secretary-Superintendent's Compliments

Ursula Archibald

for Matron, Sussex County Hospital

#13 CANADIAN GENERAL HOSPITAL
R. C. A. M. C.

EXHIBIT "E"

231/1/9-1

12 MAR 45

Officer Commanding,
8 C.I.T.R.

D.131878 Pte. Cockman, T.H.

1. The marginally named soldier was admitted to 13 Cdn General Hospital on 26 Feb 45, and discharged on 3 Mar 45 making total hospital days 5.

2. Charge in military hospitals is 10/- per day. Total hospitalisation : 5 days @ 10/- per day making a total of £2:10:0d.

Major-Registrar,
for Commanding Officer.

HFD/pb

EXHIBIT "F"

Phone: Henfield 59

March 1st 1945

M...Commanding.Officer...
No 8 C.I.T.R. Transport
Canadian Army

HENFIELD & DISTRICT AMBULANCE CLUB

Brazier's Garage, Henfield.

H. Adams, Hon. Secretary

Hire of Ambulance for: D131578 Pte Cookman, T.H.
B41924 Pte Roberts, M.A.

From Paynings Crossroads

To Royal Sussex County Hospital, Brighton

Miles @ per mile £1-10-0

Accident at Paynings Crossroads at Midnight of Feb 28th,1945.

CERTIFIED TRUE COPY

(D.N. Smith) Lieut.
Officer having custody of Original Record.

EXHIBIT "G"

8 CANADIAN INFANTRY TRAINING REGIMENT, C.A.O.

STANDING ORDERS

ISSUED BY

COLONEL J.B. WEIR, O.B.E., E.D. 8D/1

4. BOUNDS

No other ranks will leave the Area within 5 miles of Camp without a properly signed pass.

Passes are not required by Other Ranks under command of this Unit when proceeding to places after duty, within bounds as laid down in the above paragraph. "After duty" is defined as the period between 1700 hrs and 2230 hrs each week day, and between 1200 hrs and 2230 hrs on Saturdays and Sundays. In the case of Sgts., S/Sgts., and Warrant Officers, 2359 hrs will apply.

Passes are essential at all other times outside of the Unit lines for all other ranks.

Nothing in this order is to be construed as granting permission for personnel to leave the Unit lines when required in the Unit lines for parades or other duties.

The NAAFIs are out of bounds to defaulters and other ranks under "open arrest" except between 2000 hrs and 2100 hrs. The NAAFIs are out of bounds for other ranks receiving medical treatment, i.e., "Excused", "Light" or "Medicine and Duty" during parade hours. Company Orderly Sergeant and the Provost Sergeant will see that the Canteen NCOs have a list of these people before the Canteen is opened.

All Orderly Rooms are out of bounds to all ranks unless on duty.

Plantations: All ranks will take particular care to avoid damage to trees and plantations. The practice of entering plantations (farms) with vehicles) of all types is forbidden.

(sgd) Howard S. Smith, Maj.

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

CERTIFIED TRUE EXTRACT of 8 CDN INF TRG REGT STANDING ORDERS

(D.M. Smith) Lieut
Asst Admin Offr,
8 Cdn Inf Trg Regt.

Certified true copy of Reading and part of orders read as Exp 'A' original returned to admin offr as urgently required. [illegible] Major
Pres.

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).*

B155138 PRIVATE Jerome QUESNELLE Can Inf Corps, 8 Can Inf Trg Regt.

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 hereto 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 imprisonment or otherwise as the case may be, should be stated separately. Any recognized special acts of gallantry or 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 A.A. Sec 15 (1) 2 times.

For A.A. Sec 40 1 times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 17 Nov 43

Date of last entry in Field Conduct Sheet 8 May 44

2. [illegible]

*Strike out if not applicable.

3. [illegible]

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

5. The present age of the accused is 21 yrs, 9 months.

6. The date of his attestation / calling up for military service is 26 Feb 44 (C.S.) / 19 Dec 42 (NRMA)

7. The service which the accused is allowed to reckon is 2 yrs, 2 months.

†State the military decorations (if any) held by accused.

8. The accused is in possession of: Nil

9. [illegible]

[illegible]

[illegible]

[illegible]

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

(Print) WL30721 1500 12-44 A.A.G.W.Ltd. Gp.698

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.
		NIL		

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

Signed this 16th day of March 1945

D.S.M.

B155138 No. Name QUESNELLE, J. Sqn, Battery, or Company Corps "CIC" Date of enlistment 27-11-42 RC Badges Service or Proficiency Pay 3/17 MFM 6 (AFB 122) 40/PAM/136 (7910)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. Two | Signature OC Company, etc R.D.MacGillivray Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of report (Superintendence with Civil Power)	By whom awarded	Remarks
Prince George	17-11 43	Pte	1st	sheet destroyed 27 May 43 AWL from 2200 hrs 17 Nov 43 to 1130 hrs 17 Nov 43 Total absence 13 hrs A.A. 15 (1)	L/C Leslie, J.	Admonished	18-11-43	Capt J.W. MacKenzie	
Nanaimo	17-7 44	Pte		AWL from 2200 hrs 17-7-44 to 1400 hrs 22 Jul 44 T.A. 4 days 16 hrs. A.A. 15 (1)	L/C Pavoni A.J.	Admonished	22-7-44	Major J.S. Wright	Forf 5 days pay FR&I 149 (1) (a)
Nanaimo	5-8 44			Cond to the proj. etc. green Div patches on summer tunic AA 40	L/Cpl Mattiuzzi	3 days CB	7 Aug 44	Capt.E.R. Burke	

CERTIFIED TRUE COPY

Officer in custody of Original Record.

(PTO)

6 CANADIAN INFANTRY TRAINING REGIMENT

I, No. B155138 Pte Quesnelle, J. wish to have
(Rank) (Name)
an Officer defend me at my forthcoming trial by Court Martial.

I desire the services of Major D.B. Pollock
if he is available, or an Officer detailed by C.O.

(Sgd) J. Quesnelle.
B155138 Pte Quesnelle, J.

LIST OF WITNESSES

In the case of B155138 Pte Quesnelle, J., Cdn Inf Corps, on the strength of No 8 Cdn Inf Trg Regt.

FOR THE PROSECUTION

1.	B41924 Pte Roberts, M.A.	8 Cdn Inf Trg Regt.
2.	D131578 Pte Cookman, T.H.	8 Cdn Inf Trg Regt.
3.	Major D.M. Yearwood	8 Cdn Inf Trg Regt.
4.	Capt. R.D. MacGillivray	8 Cdn Inf Trg Regt.
5.	Lt. J.P.G. Gordon	#124 L.A.D. (RCEME)
6.	Lt. D.M. Smith	8 Cdn Inf Trg Regt.

FOR THE DEFENCE N I L

LIST OF EXHIBITS

In the case of B155138 Pte Quesnelle, J., Cdn Inf Corps, on the strength of No 8 Cdn Inf Trg Regt.

EXHIBIT "A" - Statement of damages, repairs, and petrol dated 12 Mar 45.

EXHIBIT "B" - Statement from Royal Sussex County Hospital dated 12 Mar 45.

EXHIBIT "C" - Statement from 13 Cdn Gen Hospital dated 12 Mar 45.

EXHIBIT "D" - Statement from Royal Sussex County Hospital dated 12 Mar 45.

EXHIBIT "E" - Statement from 13 Cdn Gen Hospital dated 12 Mar 45.

EXHIBIT "F" - Certified True Copy of a bill presented by Henfield & District Ambulance Club dated 1 Mar 45.

EXHIBIT "G" - Certified True Extract of [redacted] 8 Cdn Inf Trg Regt Standing Orders.

13 March 1945

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

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

J. Quesnelle
.....
B155138 Pte Quesnelle, J.

4E59.
Plé. QUESNELLE. L.

SCHEDULE.

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

Accused: B.79614 PTE LOUIS QUESNELLE 48BN ICBRGD

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Charge	Guilty	Guilty	
2nd Charge	Not 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 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 Nil beginning on (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 43 days, of which Nil 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 ten (10) months and to be put under stoppage of pay until a like sum is made good, the sum of $104.66 in respect of loss of kit

(Sgd) _____ 23 Sep 44 (Sgd) _____ Lt-Col and Brigade 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(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) 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 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 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I do not confirm the finding on the second charge. I confirm the finding on the first charge and the sentence of the Court but remit Stoppages of $104.66

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

(Sgd) Ford Brig
Commanding COMMANDER Confirming Officer.
1 CDN. CASE H

Date 13 Oct 44

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

Accused.	Date.	Signature of Offr.
B79614 PTE QUESNELLE L.	16 Oct 44	[illegible] Adjutant 2 Cdn Reinforcement Unit

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 20 NOV 1944 CHAKOM

RECORDED AT CMHQ IN AB 160 48-59

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig E.H. McCusker Comd 2 Cdn Inf Bde dated 20 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) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt. A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B79614	Private	Louis	QUESNELLE	1 CIC 2 Cdn Inf Div 48th Bn.

PROCEEDINGS REVIEWED 22 Nov 44

E 44 JAG Ottawa Ont

REVIEWING OFFICER

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 23 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. IS NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 758. 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 A65, for seats and insets as base to record addresses, evidence, etc., which insets are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 36, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(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.(3)

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

A3. The Court is opened. The accused is (are) brought before the Court. 23/1600 hours trial commences.

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

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

A5. President to accused: ~~Do~~ you object to ~~be interpreter? Ans~~ an interpreter? Ans

The Interpreter is sworn.(1) Do you object to ~~The shorthand writer is sworn.(1)~~ 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 objection (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(2). If objection, see procedure AA 51, RP 25, 71, 78, 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	J.M. Bigelow RCASC	4 Cdn Armd Bde
Member	Capt.	G.E. McIntyre C.S.R.	4 Cdn Armd Bde
Member	Capt.	W.H.S. Stutt PPCLI	4 Cdn Armd Bde
~~Judge-Advocate~~			
Prosecutor	Capt.	K.R. Brown	4 Cdn Armd Bde
Defending Offr	Major	R.H. Mowbray RCASC	4 Cdn Armd Bde

Questions by President: Is the Prosecutor a lawyer? Ans Yes 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 Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 23.)

A8. The accused Pte L. Louis Quesnelle before arraignment make(s) (no) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in 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 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 fns to RsP cited. Insert in AB name 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 (does) 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 paras 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 A96 to record pre-vaedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening 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 instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(E) ; 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 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. ..... (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *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 findings of Guilty in Part I of the Schedule.(1)

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

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

(1. *If there is no 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 paras D5 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 C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate 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 (has) (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 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 135.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

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

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf A95. Evidence for accused as to his character should, if on 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(e).*)

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

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) 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) (6), 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. .....

(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(3) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(2)

(1. *MFB 255 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. 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. .....

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to advise on matters 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 54(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 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its perms, 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, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p. 60, 737-739. 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 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. 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.

CHARGE SHEET

THE ACCUSED, No. B78614 PRIVATE LOUIS QUESNELLE, OF THE IRISH REGT OF CANADA, ON STRENGTH 4 CDN RFT BN, 1 CDN BASE RFT GROUP, A SOLDIER OF THE CANADIAN ARMY OVERSEAS, ALLIED ARMIES IN ITALY, IS CHARGED WITH:

First Charge
A.A. Sec 15(1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, did absent himself without leave from 1700 hrs the 28th August 1944 until surrendering himself to the Military Police at 0930 hrs 4 Sept 1944. (Total time absent 11 days, 16 hrs, 30 minutes).

Second Charge
A.A. Sec 24(2)

WHEN ON ACTIVE SERVICE
LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING AND REGIMENTAL NECESSARIES

in that he

In the Field, in Italy, on 14 Sep 44 was deficient equipment, clothing and Regtl Necessaries amounting to $104.66 as set out hereunder:

ITEM	100%	75%
Anklets Web	$ 0.99	$ 0.75
Battle Dress Blouses Serge	5.25	3.94
Battle Dress Trousers Serge	5.37	4.04
Boots Ankle w/laces	5.46	4.10
Drawers Cellular Short	0.43	0.32
Greatcoats Dismounted 1937 pattn	11.31	8.45
Jerseys Pullover	1.79	1.34
Shoes Canvas, Rubber soled(Pr)	0.65	0.49
Socks worsted	0.37	0.28
Socks worsted	0.37	0.28
Socks worsted	0.37	0.28
Bags Kit Universal	1.02	0.77
Braces	0.28	0.21
Brushes Button Brass	0.26	0.20
Brushes Clothes	0.48	0.36
Brushes Hair	0.34	0.26
Brushes Shoe Polishing	0.28	0.21
Caps Comforter	0.34	0.26
Dressing Field	0.24	0.18
Holdalls	0.19	0.14
Housewives	0.17	0.13
Knives Clasp	0.86	0.65
Razors Safety w/blade	0.06	0.05
Vests Cotton	0.36	0.27
Towels Hand	0.32	0.24
Towels Hand	0.32	0.24
Overalls Blouses Denim	2.64	1.98
Overalls Trousers Denim	2.51	1.88
Hosetops Drab	0.45	0.32
Belts Waist W.E. patt '37 Small	0.67	0.50
Bottle Water MK VII	0.82	0.62
Braces W.E. patt '37 Left	0.30	0.23
Braces W.E. patt '37 Right	0.30	0.23
Carriers Water Bottle W.E. patt '37	0.37	0.28
Shirts Bush	1.17	0.88
Shorts K D	1.01	0.76
Shorts K D	1.01	0.76
Frogs Bayonet W.E. patt '37	0.19	0.14
Haversacks W.E. patt '37	1.79	1.34

Helmets Steel MK III	2.39	1.79
Packs W.S. Patt '37	1.84	1.38
Pouches Basic W.S. Patt '37 MK III	1.19	0.89
Pouches Basic W.S. Patt '37 MK III	1.19	0.89
Straps Shoulder Haversack	0.32	0.24
Straps Shoulder Haversack	0.32	0.24
Straps Web Supporting	0.13	0.10
Straps Web Supporting	0.13	0.10
Tins Mess Rectangular	0.35	0.26
Sheets Ground MK VIII	2.94	2.31
Blankets Brown Single	3.07	2.30
Blankets Brown Single	3.07	2.30
Capes Anti-Gas No.1 Camouflaged	2.76	2.07
Respirator Haversack MK VII	1.42	1.07
Respirator Facepiece MK IV Normal	2.33	1.75
Rifle no. 4 MK 1	45.48	45.48
Scabbards Bayonet No 4 MK I	0.81	0.81
Bayonets No. 4 MK 1	2.46	2.46
Bottle Oil Bakelight MK V	0.08	0.08
Total	$ 122.17	$ 104.86

L. J. Flynn

In the Field
20 Sep 44

(L J Flynn) Lt.-Col.,
Commanding,
4 Con Rft Bn, 1 Cdn Base Rft Group - CMF

To be tried by Field General Court Martial

In the Field
20 Sept 44

G. A. McCuaig Brig.
D.D.M.S. 1 Can Corps.

FIELD GENERAL COURT-MARTIAL

CFA 30 (In lieu of AFB 30)
40/PA(I)/1697 (20-668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authty. 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, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B/8614	rrivate		Louis QUESNELLE		IRC X 4 List 4 Cdn Rft 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 (have) committed the offence(s) set forth in the Charge Sheet(s) attached and dated (date) 20 Sep 44 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.)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
MAJOR	T.B. BIGELOW		RCASC 4 Cdn Rft Bn

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
CAPTAIN	G.E. MC INTYRE		GYR 4 Cdn Rft Bn
CAPTAIN	W.H.J. STUTT		rrCLI 4 Cdn Rft Bn

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
CAPTAIN	F. POTVIN		R22eR 4 Cdn Rft Bn

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in Italy (Country)

T. G. McCuaig (Signed personally. RP 105 fn 2.) Brig (Rank.)

Date 20 Sept 44

Commanding 1 Cdn Corps. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

Exhibit 2
Surgeon's Report

B78614

I certify that I have this morning examined No. ..... Rank ..... Name ..... Unit .....

PTE QUESNELLE L ..... A Bn., 1 Can Base Reinf Depot,

and in my opinion he is fit/~~unfit~~ to undergo Trial by Court Martial.

C Egan Capt
Medical Officer, 4 Bn., 1 C.B.R.D.

In the Field
23-9-1944.

Record from D3
Post Witum for Prosecution ①

I am 278530 C.Q.M.S Walker, J.E. of 1 R.C. Regt attd 4th Can Rest Bn. P.E. I am C.Q. R. Coy 4 Bn. Q. Stores

On 19 Sept acting upon orders of Legal Offr Capt Brown I was ordered to make a Kit inventory of Pte. [redacted] Quennelle. I worked R Coy Stores and made the above kit. I then collected all C.Q.'s of 4 Bn and made the same search through their stores and also regular R.Q. stores. I could find no kit belonging to the accused. I listed the deficiencies from the casualty Pte W. Book of what had been issued by him. This he followed up by a kit that account had with him on 5 Sept 44. Total kit deficiencies amounted to $11.23.

Cross Ex

Q. Did the accused call your attention to the fact that he had a ring?
A. I understood from the accused that the ring he had on hand was the property of the Regt'l Police.

Re Ex - Nil

Record from D

Direct by Crown Prosecutor

I am 278530 C.Q.M.S Walker of 1 R.C. attd 4th Can Rst Bn. P.E.

I am C.Q.M.S. of R Coy 4 Bn. Q. Stores.

Q. What is the duties of handing kit of absentees in R Coy

A. If a man goes AWL absent 48 hrs. I then go with the Coy C.S.M. and search the kit. I then go with the Coy C.S.M. and attention to the kit that can be found belonging to the said absentee.

Q. Was any kit found in accused's case.

A. I did not take over R. Coy Q. Stores until 5 Sept 44. When I was ordered by Capt Brown to make a list of the kit known by the accused. I made a search and could not find any of his kit.

Q. Who was in charge of the Coy when accused absented himself from duty?

D. I was on the lorry.

C. Was there confusion on the lorry when it arrived there?

A. Yes.

C. Do you know if an equipment check was made?

A. I don't know.

Cross Ex. Nil

Record Form D. R.P. 53(8) complied with

Second Witness for Defence. C. 78 (Accused)

Sworn

C. Were you on the lorry when you left Enfidaville?

A. Yes sir.

C. Did you take stock with you when you left the lorry?

A. No sir.

C. Was there a N.C.O. in the lorry?

A. Yes sir, Cpl.

Cross Ex.

C. - You say about 6 when you left the lorry?

A. I do not say exactly. I left when the others left when you could start to see. I was not sure of the time.

A. - No sir. R.P. 53(8) complied with

Record Form D.

Closing Address by Defence

I do not propose to say anything on the lorry or how it arrived here. It is for you to say whether it was or was not carried out. And what neglect on the part of any accused it was that caused the loss. I have looked at the matter as carefully as I could. I can find no evidence that the lot was still on the lorry on its arrival here. [illegible] on the part of the accused.

Record Form D

Closing Address Prosecution

I would like to draw the attention of the court to Sec 20 (4) (a) A.A. 1881 where it differentiates between ordinary and

Record from E 3.

Statement by Defence

It will be noted that accused A.F.H. 6 is not available. May I assure the court the accused has only had minor crimes and never on F.G.C.M. the record of service has been long and he has seen action with the regt. In Sicily he shed a steady white other more recently gained awarded he was going forward he will know the meaning and not realising the seriousness of the offence wanted a final fling before one more risky action. I would ask the court to take into consideration the fact that he is battle experienced and made up of an arrest & the army in a fighting role than in a detention camp. He wishes to return to his regt. and do the job he enlisted for. May these fact be taken into consideration on awarding sentence.

Summary of Evidence in the case of B78614 Private Louis Quesnelle of the Irish Regiment of Canada, on strength 4 Cdn Rft Bn, 1 C B R G who is charged with WOAS Absenting himself without leave A A 15 (1).

By direction of the Commanding Officer, the evidence is taken upon oath.

1st WITNESS: R48784 Sgt Fortin L G of 4 Cdn Rft Bn, 1 C B R G having been duly sworn states:

I am R48784 Sgt Fortin L G, R E Sgt of B Coy 4 Bn 1 C B R G.

On the 28th of August, 1944, at approx 1700 hrs I called the roll of an incoming draft of personnel of the Irish Regt of Canada. The accused, Fte Quesnelle, did not answer his name, nor was he present on parade. I reported him to the Company Orderly Room as being an absentee without leave.

Sgt Fortin L.G
(Sgt Fortin L G)

The accused declined to cross examine this witness.

2ND WITNESS: A3885 Fte Knowles H, 4 Cdn Rft Bn, 1 C B R G, having been duly sworn states:

I am A3885 Fte Knowles H, file clerk in the 4 Bn Orderly Room. I produce a certificate under 165 (1)(j) purporting to relate to the accused, and showing that Fte Quesnelle surrendered himself to the Military Police at Naples at 0930 hrs 8 Sept 1944. Produced shown to the accused, marked Exhibit "A" and attached hereto.

H Knowles
(A3885 Fte Knowles H)

The accused declines to cross-examine this witness.

3RD WITNESS: B78530 CQMS Walker J E of "B" Coy, 4 Bn, 1 C B R G, having been duly sworn states:

I am B78530 CQMS Walker J E, R A quartermaster Sgt of "B" Coy. On the 15th of Sept 1944, acting on orders, I checked the kit of B78614 Fte Quesnelle L and found him deficient the articles enumerated in the attached list, to the amount of $123.17. I am conversant with the 75% and 100% values of the enumerated articles and have checked the attached list and totals.

J E Walker
(B78530 CQMS Walker J E)

The accused declines to cross-examine this witness.

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 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 will be given in evidence.

Answer by the Accused

I have nothing to say at this time.

I certify that R.r. 4 (c), (d), (e) & (f) have been complied with.

I certify that the above pages of the summary of evidence were taken down by me in the presence of the accused.

(R R Brown) Capt
Officer taking Summary

Exhibit H
Interrogation Report

Army Act Section 163 (4) (i).

I, LT. T.W. GORDON certify that:

No B-78614 Rank PTE Name QUESNELLE, L.
Unit IRISH REGT., OF CANADA
14 COY, 3Bn., No 1. CBRD.
No 5569193 Rank L/CPL Name WEBB. A.J. surrendered himself to
at 09.30 hours on the 9th Sept. 1944 as a deserter (or
absentee without leave).

Commanding Officer of the person or portion of His Majesty's Forces to whom the surrender was made.

Exhibit H [signature] Capt

[signature] Lt.
Commanding,
No 4 Coy. C.M. Depot

Exhibit "H" Sub Signed [illegible]

ARMY FORM B.200.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
27/36614	Rfn	Quesnelle L	Irish R of C A-4 List 4 Cdn Rft Bn

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.—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 annexed to the proceedings.

† See para. 417, K.R., 1940.

* The numbers therein stated should correspond with the number of entries in the conduct sheet(s), particulars being given in the usual order, offences in each entry, and how dealt with, special mention being made of any offence which is distinguished conduct.

Instruction.—If the charge sheet does not show the result for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	B/A times	B/A times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

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

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

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 78 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, ~~BUT HE HAS BEEN AWARDED~~ B/A beginning on the B/A day of B/A

4. The accused has been in confinement, awaiting trial on the present charges, for From 0900 hrs 4 Sep 44 days in civil custody, and 14 days in military custody, making a total of 14 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 24 yrs

6. The date of his ~~enlistment~~ attestation specified in his record of service is 17.6.40

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

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

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

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of, or entitled to (*state any military decoration or reward*)). B/A

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

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

(72254) W.5477/1/1077 50,000 10/40 A.F. B.W.1st Gp.A/99
(22907) W.5266/1/1227 50,000 3/43

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.

No. B78614 Rank Pte Name Quesnelle L. of 1 Plan Regiment (or as the case may be) of C A-A plat 4 Cdn Rft Bn

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

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charge 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.
		N/A		

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

Signed this 20th day of September 1944.

A.S. Davidson

(A S Davidson) Capt & Adjutant
4 Cdn Rft Bn, 1 Cdn Base Rft Group - C M F

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

To the rank of N/A Date of Promotion N/A

In the rank of ____ years ____

In the rank of ____ years ____

In the rank of ____ years ____

Declaration.—If any matter in any of the above paragraphs ruled to stand from the regimental books the paragraph must be struck through, except that in the case of a fine to be remitted the amount may be inserted. Any remarks considered necessary should be made in the paragraphs concerned, remarks in red ink.

No. B78614 Name Quesnelle L | Sqn., Battery, or Company | Corps C I C | Date of enlistment 17.6.40 | Badges | Proficiency Pay

M.F.M. 6
(A.F. B.171)
40/P&C-80136 (2966)

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 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 (Quoting Army Form)	By whom awarded	Remarks
				"CERTIFIED THAT AFM 6 IS NOT AVAILABLE FROM REGT'L BOOKS IN MY CUSTODY"					
In the Fld 20 Sep 44				(A E Davidson) Capt Adjutant, 4 Cdn Rft Bn, 1 Cdn Base Rft Group - CMF					

Lt Brigadier
Iraq F

~~I request that~~ .....

~~by Officer~~. ~~If this Officer is not available~~ I request that the Commanding Officer of 4 Bn, 1 C.A.V. D. appoint an Officer to act in my behalf.

(B75614 rte Quesnelle L)

SCHEDULE.

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

Accused: B 78614 Pte Louis Quesnelle 4 Bn 1 CBRGp

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Charge	Guilty	Guilty	
2nd	Charge	Not Guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 483 fn 4 paras 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: Nil beginning on (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 13 days, of which Nil 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 ten (10) months and to be put under stoppages of pay until he has made good the sum of $104.66 in respect of loss of kit.

(Sgd) Judge-Advocate, if any. 23 Sep 44 Date awarded. (Sgd) T.W.BIGELOW Major 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 (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 1, 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 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 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I do not confirm the finding on the second charge. I confirm the finding on the first charge and the sentence of the court but remit stoppages of $104.66.

[redacted] "EWH"

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

Date 13 Oct 44 (Sgd) Brigadier (T.W. HALDENBY) Commanding 1 Cdn Base Rft Gp Confirming Officer.

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

Accused.	Date.	Signature of Offr.
B 78614 Pte Quesnelle L.	16 Oct 44	(J.A. DALCOM) Lieut. Adjutant 2 Cdn Reallocation Centre.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Certified True Copy
By Capt D M OWEN
Cdn Sec 2 Ech, A.A.I.

4F. 59.

CPA96 (In lieu of AFA3) 10-P.A.H.(808-28664)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier E.A. McCusker Comd DDMS 1 Cdn Corps 20 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) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B 78614	Pte	Louis	Quesnelle	I RCX4 List 4 Rft Bn. CBRGp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 23 Sep 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, [redacted] assemble, and the "TWB" Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Captions do NOT include all relevant fine RDs. 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 A95, 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, 102, 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 [redacted] "TWB" amenable to military law, and each charge discloses an offence.(3)

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

A3. The Court is opened. The accused is [redacted] brought before the Court. At 1410 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is "TWB" fit to undergo trial by court-martial.(1) [redacted] "TWB"

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

A5. [redacted] The shorthand writer is sworn.(1) "TWB"

(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 Objn (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(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	Major	T.W. BIGELOW	RCASC	4 Cdn Rft Bn
Member	Capt.	C.F. McIntyre	CIT	4 Cdn Rft Bn
Member	Capt.	W.J.C. STUNT	RCCLI	4 Cdn. Rft Bn.
~~Judge-Advocate~~	~~name~~			
Prosecutor	Capt.	R.B.BROWN		4 Cdn Rft Bn
Defending Offr	Major	R.N. MUMMERY	RCASC	4 Cdn Rft Bn

Questions by President: Is the Prosecutor a lawyer? Ans Yes 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 Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69 (B) and fn 2 were not followed. See (2) p 3.)

A8. The accused B 78614 Pte Louis Quesnelle before arraignment make(s) (no) [redacted] plea. "Twice"

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in 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 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 fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is [redacted] arraigned [redacted] on all charges in the charge sheet.(1) The accused does [redacted] "TWB" 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 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

"TWB" A10. The Court [redacted] and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C

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 nuthy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offences.* (*RP 44(II).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 35.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective 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 [redacted] *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 (subs a) as being appropriate to result of its decision. See M.M.L. p 744 Footn (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 80(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 91, 92; questioning of accused see RP 80, 87(C), 92(B); and of witnesses see RP 85-85; calling or recalling 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)(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. *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 13 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. [redacted] "TWB" [redacted]
(1. *Court may be closed to consider the statement. Delete where nr part not used.*)

B4. On the charge(s) [redacted] to which the plea(s) of Guilty is [redacted] not changed the President records finding(s) [redacted] "TWB" of Guilty in Part 1 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 G, 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) in lieu of paras 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 C2. If any plea is changed to Not Guilty, that thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate 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 (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes [redacted] "TWB" [redacted] (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) [redacted] "TWB" [redacted]
(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? Do you intend to call witnesses on your behalf?
Ans. Yes
Ans. Yes Are they witnesses as to character only? Ans. No
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *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 40(A) fn 1, 80(C). Note the further opportunity in para E2 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(6).*) "TWB"

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the findings [redacted] "TWB" of the Court on the Second charge(s), being subject to confirmation, will be promulgated later.(1)
[redacted] "TWB"
(1. *AA 54(1) (b), RP 45, 125(A).* 2. *AA 54(2), RP 45, 117. This paragraph announced 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 6. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement[redacted] 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[redacted] having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex H and Ex I respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFB a.* 3. *RP 46, KR Can 538. If above documents not produced, see RP 46 fn 6 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement[redacted] 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 answer 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)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part 1 of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(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 its proviso, to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 68, 118, 119(4). KR Can 308, 330, 363-366. Overseas RO 309, 2302, 2306, p 60, 737-738. 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(1B), 68(7), KR Can 364.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. 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.

"The Regalow"
Major

CHARGE SHEET

The ACCUSED, No. B 78614 Pte LOUIS QUESNELLE, of the Irish Regt of Canada, on strength 4 Cdn Rft Bn, 1 Cdn Base Rft Group, a soldier of the Canadian Army Overseas, Allied Armies in Italy, is charged with:

FIRST CHARGE
A.A. Sec. 15 (1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, did absent himself without leave from 1700 hrs the 28th August 1944 until surrendering himself to the Military Police at 0930 hrs 9 Sept 1944. (Total time absent 11days, 16 hrs, 30 minutes).

SECOND CHARGE
A.A. Sec 24(2)

WHEN ON ACTIVE SERVICE
LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING AND REGIMENTAL NECESSARIES

in that he

In the Field, in Italy, on 19 Sep 44 was deficient equipment, clothing and Regtl. Necessaries amounting to $104.66 as set out hereunder:

ITEM	100%	75%
Anklets Web	$ 0.99	$0.75
Battle Dress Blouses Serge	5.25	3.94
Battle Dress Trousers Serge	5.39	4.04
Boots Ankle w/laces	5.46	4.10
Drawers Cellular Short	0.43	0.32
Greatcoats Dismounted 1939 Patt.	11.31	8.45
Jersey Pullover	1.79	1.34
Shoes Canvas, Rubber Soled(Br)	0.65	0.49
Socks Worsted	0.37	0.28
Socks Worsted	0.37	0.28
Socks Worsted	0.37	0.28
Bags Kit Universal	1.02	0.77
Braces	0.28	0.21
Brushes Button Brass	0.26	0.20
Brushes Clothes	0.48	0.36
Brushes Hair	0.34	0.26
Brushes Shoe Polishing	0.28	0.21
Caps Comforter	0.34	0.26
Dressing Field	0.24	0.18
Holdalls	0.19	0.14
Housewives	0.17	0.13
Knives Clasp	0.86	0.65
Razors Safety w/blades	0.06	0.05
Vests Cotton	0.36	0.27
Towels Hand	0.32	0.24
Towels Hand	0.32	0.24
Overalls Blouses Denim	2.64	1.98
Overalls Trousers Denim	2.51	1.88
Hosetops Drab	0.43	0.32
Belts Waist W.E. Patt '37 Small	0.67	0.50
Bottle Water MK VII	0.82	0.62
Braces W.E. Patt '37 Left	0.30	0.23
Braces W.E. Patt '37 Right	0.30	0.23
Carriers Water Bottle W.E. Patt ~~RIT~~'37	0.37	0.28
Shirts Bush	1.17 7	0.88
Shorts K D	1.01	0.76
Shorts K D	1.01	0.76
Frogs Bayonet W.E. Patt '37	1.79	1.34
Haversacks W.E. Patt '37	1.79	1.34

T.W. Bigelow Major

Helmets Steel MK 111	2.39	1.79
Packs W.E. Patt '37	1.84	1.38
Pouches Basic W.E. Patt '37 MK111	1.19	0.89
Pouches Basic W.E. Patt '37 Mk111	1.19	0.89
Straps Shoulder Haversack	0.32	0.24
Straps Shoulder Haversack	0.32	0.24
Straps Web Supporting	0.13	0.10
Straps Web Supporting	0.13	0.10
Tins Mess Rectangular	0.35	0.26
Sheets Ground MK V111	2.94	2.31
Blankets Brown Single	3.07	2.30
Blankets Brown Single	3.07	2.30
Capes Anti-Gas No. 1 Camouflaged	2.76	2.07
Respirator Haversack MK V11	1.42	1.07
Rifle No. 4 MK 1	45.48	45.48
Scabbards Bayonet No. 4 MK 1	0.61	0.61
Bayonets No. 4 MK 1	2.46	2.46
Bottle Oil Bakelight M[illegible]	0.06	0.06
Total	$ 123.17	$ 104.66

In the Field
20 Sep 44

L J Flynn

(L.J. FLYNN) Lt-Col.,
Commanding,
4 Cdn Rft Bn, 1 Cdn Base Rft Group - CMF

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
20 Sept 44

E A McCusker Brig

(E.A. ~~McCUSKER~~) Brigadier,
D.D.M.S. 1 Cdn Corps.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate 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, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B78614	Private		Louis	Quesnelle	IRC X4 List 4 Cdn Rft Bn

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(s) set forth in the Charge Sheet(s) attached and on (date) 20 Sep 44 endorsed by me, "To be tried by Field General Court-Martial", "EM"

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; "EM"
(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 "EM" or detailed hereunder.

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

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

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	T.W. BIGELOW	RCASC 4 Cdn Rft Bn	

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Captain	G.E. MCINTYRE	CYR 4 Cdn Rft Bn	
Captain	W.H.J. STUTT	PPCLI 4 Cdn Rft Bn	
Captain	F.POTVIN	WAITING MEMBER 4 Cdn Rft Bn	
Captain	F.Potvin	R2eR 4 Cdn Rft Bn	

WAITING MEMBER

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in Italy (Country.)

E.A. McCUSKER (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 20 Sept 44

Commanding D.D. M.S. 1 Cdn Corps (Convening Officer.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAES (To Item 38 of AFA3) 40/F & S/13807 (1401)

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

Exhibit "F"

"T.W. BIGELOW" Major.

MEDICAL OFFICER'S CERTIFICATE
KR (CAN) Para 557

I certify that I have thismorning examined No. B78614
Pte QUESNELLE L. 4 Bn., 1 Cdn Base Reinf Depot,
and in my opinion he is fit to undergo trial by Court Martial

In the Field
23-9-1944

"??????????????" Capt.
Medical officer, 4 Bn, 1 C.B.R.D.

Record Form D3 "T.W. BIGELOW Maj"

FIRST WITNESS
For Prosecution -

I am B78530 C.Q.M.S. Walker, J.E. of I.R.C. and attached 4 Cdn Rft Bn P.E. I am C.Q., B. Coy Q. Stores.

On 19 Sep acting upon order of Legal officer Capt Brown I was ordered to make a kit invetory of Pte Quesnelle. I searched B Coy Stores and could find none of his kit. I then contacted all C.Q's of 4 Bn and made the same search through their stores, - I also searched R.Q. Stores. I could find no kit belonging to the accused. I listed the deficiencies from the accused's Pt 111 Pay Book which had been signed by him. This kit does not include any kit that accused had with him on 19 Sep 44. Total kit deficiencies amount to$123.17.

CROSS EX.

Question - Did the accused call your attention to the fact that he had a razor?
Answer - I understood from the accused that the razor he had was the property of the Regt'l Police.

Re EX.- Nil

R.P. 83(c) Complied with

Record Form D

FIRST WITNESS
For Defence -

I am 78530 C.Q.M.S. Walker J.E. of I.R.C. attached 4 Cdn Rft Bn, P.E. I am C.Q.M.S. of B Coy 4 Bn Q Stores.

Question - What is the policy of handling kit of absentees in B Coy 4 Bn?
Answer - If a man goes A.W.L. whilst in 4 Bn it is brought to my attention by the Coy. O.S. I then go with the Coy. O.S. and gather together all the kit that can be found knowing it to belong to the said absentee.
Question - What was done in Quesnelles' case?
Answer - I did not take over B Coy. Q. Stores until 9 Sep 44. When I was ordered by Capt. Brown to make a list of the kit deficiencies of the accused I made a search and could not find any of his kit.
Question - Who was in charge of the Lorry that brought the accused up from Avellino?

Answer - I was in charge of the Lorry. "T.W. BIGELOW Maj."
Question - Do you know if an equipment check was made.
Answer - I don't Know.

Corss Ex.- Nil.

Record Form D R.P. 83(b) Complied with.

SECOND WITNESS
For Defence (Accused) -

I am B78614 Pte Quesnelle L. 4 Bn.
Question - Was your kit on the Lorry when you left Avellino?
Answer - Yes Sir.
Question - Did you take it with you when you left the Lorry?
Answer - No Sir.
Question - Was there an N.C.O. in the Lorry?
Answer - Yes Sir

Corss Ex.

Question - What happened to your kit after you left the Lorry?
Answer - Ican't say Sir. I left it on the Lorry.
Question - When you went absent from the lorry did you make any arrangement for the safeguarding of your kit?
Answer - No Sir.

R.P. 83(b) Complied with.

Record Form D

Closing Address by Defence -

If the kit was on the lorry when it arrived here it is obvious that little or no checking was carried out and while neglect in the first instance is shown by the accused, in not ascertaining that his kit was looked after when he went A.W.L., nevertheless if his kit was still on the lorry when it arrived here neglect and lazness on the part of the receiving staff is shown.

Record Form D

Closing Address, Prosecution -

I would like to draw the attention of the court to Sec 24(2)(c) A.A.- MWL, where it differentiates between carelessness and culpable neglect. The accused has lost his kit. The accused admits going absent without leave and further admits that he took no precautionary re safeguarding his kit. It is the contention of the prosecution that this amount to culpable neglect on the part of the accused and that he should so be found guilty.

Record Form E.3

Statement by Defence-

It will be noted that accused's M.F.M.6 is not available. May I assure the court the accused has only had minor crimes and never an F.C.C.M. His record of service has been long and he has seen action with his Regt. In Avellino he had to stand by while others more recently joined proceeded on leave. When he was warned he was coming forward he well knew the meaning and not realizing the seriousness of the offence wanted a final fling before once more going into action. I would ask the court to take into consideration the fact that he is battle experienced and much more of an asset to the army in a fighting role than in a detention camp. He wishes to return to his Regt. and do the job he enlisted for. May these facts be taken into consideration on awarding sentence.

"B"

Exhibit 'G' "TWBigalow Major"

Summary of Evidence in the case of B78614 Private Louis Quesnelle of the Irish Regiment of Canada, on strength 4 Cdn Rft Bn, 1 C B R G who is charged with WOAS Absenting himself without leave A A 15 (1).

By direction of the Commanding Officer, the evidence is taken upon oath.

1ST WITNESS: P48784 Sgt Fortin L G of 4 Cdn Rft Bn, 1 C B R G having been duly sworn states:

I am P48784 Sgt Fortin L G, P E Sgt of B Coy 4 Bn 1 C B R G.

On the 28th of August, 1944, at approx 1700 hrs I called the roll of an incoming draft of personnel of the Irish Regt of Canada. The accused, Pte Quesnelle, did not answer his name, nor was he present on parade. I reported him to the Company Orderly Room as being an absentee without leave.

"Sgt Fortin L G"
(Sgt Fortin L G)

The accused declined to cross examine this witness.

2ND WITNESS: A3885 Pte Knowles H, 4 Cdn Rft Bn, 1 C B R G, having been duly sworn states:

I am A3885 Pte Knowles H, file clerk in the 4 Bn Orderly Room. I produce a certificate under 163(1)(j) purporting to relate to the accused, and showing that Pte ~~XXX~~ Quesnelle surrendered himself to the Military Police at Naples at 0930 hrs 9 Sept 1944. Produced shown to the accused, marked Exhibit "A" and attached hereto.

"H Knowles"
(A3885 Pte Knowles H)

The accused declines to cross-examine this witness.

3RD WITNESS: B78530 CQMS Walker J E of "B" Coy, 4 Bn, 1 C B R G, having been duly sworn states:

I am B78530 CQMS Walker J E, P E quartermaster Sgt of "B" Coy. On the 19th of Sept 1944, acting on orders, I checked the kit of B78614 Pte Quesnelle L and found him deficient the articles enumerated in the attached list, to 100% values of the enumerated articles and have checked the attached list and totals. I am conversant with the ~~XXX~~ and the amount of $123.17

"John E Walker"
(B78530 CQMS Walker J E)

The accused declines to cross-examine this witness.

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 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 will be given in evidence.

Answer by the Accused

I have nothing to say at this time.

"TWBigalow Major"

I certify that R.P. 4 (C), (d),(e), & (f) have been complied with.

I certify that the above pages of the summary of evidence were taken down by me in the presence of the accused.

"RRBrown"
(R R Brown) Capt
Officer taking Summary

EXHIBIT "A" "T.W. BIGELOW" Major.
Army Act Section 163 (1)(JJ)

CERTIFICATE OF SURRENDER

I, Lt J.W. Gordon certify that:

No. B-78614 Rank Pte Name QUESNELLE L.
IRISH REGT., OF CANADA Unit 14 Coy, 3 Bn., No.1 CBRD
surrendered himself to
No. 5569193 Rank L/Cpl. Name WEBB A.J. at:- NAPLES.

at 0930 hours on the 9 th Sept 1944 as a deserter (or

absentee without leave).

Commanding Officer of the person or
protion of His Majesty's Forces to
whom the surrender was made.

Exhibit "A" "R.R. Brown" Capt. "??????????" Lt.
Commanding,
510 Provost Coy C.M.Police.

Exhibit H "T.W. BIGELOW" Maj

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).*
B78614	Pte	QUESHELLE L	Irish R of C X - 4 List 4 Cdn Rft Bn

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, 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 N/A — N/A times.

For _____ — _____ 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 _____ beginning on the _____ day of _____

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for N/A days in civil custody; and for 14 days in military custody, *i.e.*, _____ days in open arrest, 14 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 24 yrs

6. The date of his attestation / ~~calling up for military service~~ is 17.6.40

7. The service which the accused is allowed to reckon is N/A

8. The accused is in possession of†

†State the military decorations (if 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 N/A	
In the war substantive rank of N/A	
In the acting rank of N/A	

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

Wt 35006/1502 20,000 3/44 51-4751. Forms/B.296/(War)/2

"T.W. BIGELOW" Majr

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.
		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 20th day of September 1944

"A.E. Davidson"
(A.E. Davidson) Capt & Adjutant
4 Cdn Rft Bn, 1 Cdn Base Rft Group

CMF

No B78614 Name Quesnelle L | Sqn. Battery or Company | Exhibit "I" Corps C I C | T.W. Bigelow | Date of enlistment | Major | OC Badges | Service or Proficiency Pay | MFM 6 (AFB 2252) 40/PAM/3206 (9438)

Company Conduct Sheet Date of last entry in | 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	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

"CERTIFIED THAT MFM 6 IS NOT
AVAILABLE FROM REGT'L BOOKS
IN MY CUSTODY"

A. E. Davidson
(A E Davidson) Capt
Adjutant,
4 Cdn Rft Bn, 1 Cdn Base Rft Group - CMF

In the Field
20 Sep 44

PTO

"T.W. BIGELOW" Major

I request that the Commanding Officer of 4 Bn, 1 C.A.R.D.

appoint an Officer to act in my behalf.

"Louis Quesnelle"
(B78614 Pte Wuesnelle L)

52-143

Spc. Quevillan R.

RECORDED AT CMHQ IN AB 180, 5I-143.

RECEIVED 29 MAY 1945 JAG BRANCH C.M.H.Q.

CPA85 (To 1000 of AFA81) 40-P.K.-8/1068 (S2791) 4.38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of J.R.R. GOUGH, BRIG Comd A. TPS AREA FIRST CDN ARMY dated 5 May 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) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L. 22950	SPR	SPR	RAYMOND	QUEVILLON	3 BN R.C.E.

PROCEEDINGS REVIEWED 2 8 MAY 45

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

PROCEEDINGS REVIEWED 29 MAY 45 CMHQ Base 1 Echelon HQ 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 5 MAY 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn 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, CF A95, 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, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) 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.(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 (~~not~~) brought before the Court. At 1430 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 elected to be tried by court-martial instead of being dealt with summarily by the CO(1).~~

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

A5. President to accused: Do you object to ASSTPD CPL JODOIN, RCA 3 BN, R.C.E. as interpreter? Ans No.

The Interpreter is sworn.(1) ~~Do you object to ... as shorthand writer? Ans ... 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, waiting member retires. RP 66(8). If objection, see procedure AA 51, RP 23, 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	J.A. PRUDHOMME	C.I.C. & C.A. DET
Member	CAPT	R.G.G. LOVER	C.I.C. HQ ARMY TPS AREA FIRST CDN ARMY
Member	LIEUT	D.W. McKINNEY	C.I.C. HQ. ARMY TPS AREA FIRST CDN ARMY
Judge-Advocate	MAJ.	R.F. WILLSON	C.I.C. HQ ARMY TPS AREA FIRST CDN ARMY
Prosecutor	CAPT	N.J. WERMENLINGER	3 BN. R.C.E.
Defending Offr	LIEUT.	R. ROCHON	3 BN R.C.E.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(3)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See Dil p 32.)

A8. The accused L. 22950 SPR QUEVILLON, Raymond before arraignment makes (no) plea(s).(1) ~~Other Security~~

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 113), 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 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 fns to RoP cited. Insert in A8 rank 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 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 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from 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 instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 68(*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, 95.

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.....(5)

(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 cleared 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....., 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 paras 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 Schedule of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate 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. (1)

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

D2. The Prosecutor makes ~~a~~ (no) opening address.(1)

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

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

(1. RP 39(C), 114, KR Con 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 that accordingly the trial will proceed on the former, and that the accused is found Not Guilty on the charge/s~~, and that, accordingly, the trial will proceed on the former.

(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 80(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(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. Yes, Statement on OATH. Do you intend to call witnesses on your behalf?

Ans. Yes. 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 fns 2, 9.)

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

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) 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 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 54(3) (6), 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 ~~some~~ the charge/s, 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 Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)

(1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Con 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. 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 1-4.)

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

(1. AA 54(6), RP 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 J.A. 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 cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RD 309, 2323, 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(18), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. 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.

SCHEDULE.

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

Accused: L22950 SPR RAYMOND QUEVILLON, 3 BN. R.C.E.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 40.	Not 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 as lists of kit see RP 44 fn 6.)

~~At present on list of~~ ~~remaining on~~ ~~sick~~

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

Time in confinement awaiting present trial—a total of 15 days, of which Nil 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 Nine months.

~~Five months detention~~

(Sgd) R Sweeney Judge-Advocate, if any. Major 6 May 1945 Date awarded. (Sgd) Fred Fromenc, maj/cr President. (RP 45, SC.)

(See back of Convening Order as to assembly and dispersal 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) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 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 53, MML p 65. Quashing after promulgation: KR Con 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 sentence of the Court but remit five months of the detention

~~I direct that the accused be not committed to prison or detained in custody until further order.~~ (1)

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

Date 9 May 45 (Sgd) Brigadier, Commanding COMD. ARMY TROOPS AREA Confirming Officer FIRST CDN. ARMY

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

Accused.	Date.	Signature of Offr.
L 22950 Spr Quevillon R.	MAY 12 1945	A E Dowden Capt & Adjt. 3 Bn R.C.E.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

MEDICAL OFFICER'S REPORT

I certify that I have this day examined H. 22950 S/x

Guerillon, F. S/M ECU and in my opinion he is fit

to undergo trial by Court Martial.

G d'Alcantara Capt
Medical Officer
Unit... N.O.B. Brest...

Station... Field...

Date... 5 May 45...

Jay

H 22950 Spn

Guévillon R

R.S.V. Etcheverry Capt

M. O. 3 BN. R. C. E.

Field
6 May 45.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate 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, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names	Surname.	Unit.
L-22950	Spr	Spr	Raymond	Quevillon	3 Bn RCE

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 dated (date) ~~as above~~ 5 May 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.)

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

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

PRESIDENT.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Major	J.A. Prudhomme	CIC	8 CA Det

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	R.G. Glover	CIC	HQ A Tps Area, First Cdn Army
Lieut	D.W. McKinney	CIC	HQ A Tps Area, First Cdn Army

~~WAITING MEMBER.~~

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

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Maj	R.F. Willson	CIC	HQ A Tps Area, First Cdn Army

On Active Service in the Fd

in HOLLAND (Country.)

Dated 5 May 45

(Signed personally. RP 105 fn 2.)
(JRR GOUGH)
Brigadier (Rank.)
Commanding A Tps Area, First Cdn Army
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 96 (In Seu of AFA 3) 40/F & S/1697 (E1&S)

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

CHARGE SHEET

The accused, L 22950 SPR RAYMOND QUEVILLON, A Coy 3 Bn RCE, a soldier of the Canadian Army Overseas is charge with :-

FIRST CHARGE
AA Sec 40

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

in that he
In the Field, at about 1100 hrs on 12 Apr 45 was improperly in possession of a wallet containing 140 gldrs found on the dead body of F/O William Arthur KALKA, of #3 Gp 486 N.Z. Sqn, R.A.F.

In The Field.
15 Apr 45

(Geo W Smith) Lt-Col RCE
Commanding Officer, 3 Bn RCE.

To be tried by Field General Court Martial

In the Fd
26 Apr 45

(J P E Crough) Brig
Comd 4 Tgt Area First Cdn Army

D-3

Prosecution

1st Witness. Rt. G.H. Carnegy. 3 Bn RCE, Sworn, States.

I am OC. Spl. "A" Coy 3 Bn R.C.E.

I produce a rough sketch of the area which is in discussion in this case for purposes of direction and location. (The def. Offr makes no objections) (The sketch is admitted as Exhibit "A")

On 15 Apr 45 between 1000 and 1100 hrs I went down to the Meuse River, near Ravenstein Village. A body had been recovered from the water and had been laid on a pontoon. (Witness indicates spot where body was lying with red mark on Ex "A") R/Sgt Charbonneau proceeded with the search of the body and handed me the identity discs from the body. They bore the name F/O. KALKA, NZ-RAF. By reason of what I learned there I organized a search for a missing wallet. All pers on the pontoon were searched. ~~I don't know whether the accused was there or not~~. The accused was there at the time. He was searched also. The search failed to locate the missing wallet. I then went to shore on the North Bank of the river and searched under boards, barley panels, where I thought the wallet could have been hidden. I also searched ~~in the~~ personal equipment of the men and in a truck there. By reason of what I learned I told the men to line up

with their mess tins in front of them. Two N.C.O's and 2 watches while Cpl. Dorrow commanded to search the mess tins from the left flank. Most of the mess tins were in ration bags - and when he came to the accused he got a wallet from his ration bag. I kept this wallet, showed it to L/Sgt Charbonneau, and later turned it over to our adjt. Out of the pictures I saw in the wallet was a picture of the same face which I had seen on identification papers bearing the name of 70 Kalka NZ 188. These papers and wallet have now been sent to LRS with 70 Kalka's personal belongings and body. When I handed the wallet over to the 2 I/C by Coy I suggested that a list should be made of its contents. When the wallet was found in the Accused's ration bag he said to me "Somebody must have put it there" or words to that effect.

Cr. Exam. I had 32 - 35 men at work that morning - 20 of them were searched. Some were on the bank and some were on the pontoon. After the search on the pontoon most of the pers went on the bank. Everyone was not searched because everyone didn't come on the pontoon.

R. Re-Exam.

By the Court. The time between the search on the pontoon and the search on the shore was 10-12 minutes. I don't know where the accused was during that time. I'm not sure that the "Searchers" were searched - that would include L/Sgt Charbonneau and two Cpls. There may have been some who

left the pontoon by water before the search on the pontoons - to go to the North bank. An order had been given that no one was to leave the pontoons prior to the search.

R.P. 83(B) Complied with.

2nd Witness. E.16013 Cpl. Gosselin. R., 3Bn R.C.E.
Sworn, States.

On 17 Apr. 45 I was working on our pontoons on the River Maas when a body was found in the river. By reason of what happened and on order from Lt Gallopy I made a search of every body on the pontoons. The accused was there. I know him. I searched him myself. The search failed to produce the wallet. After we came off the pontoon we started to search the grounds and the pack packs. Cpl Lewis and I were doing the searching on the ground. Cpl Lewis called me over and showed me a ration bag. He took the mess tin out - and the wallet came afterwards. I saw the wallet. It was a blue wallet soaking wet. I never handled it after. He wasn't sure who the bag belonged to. He waited till the men came back from the other shore where they had removed the body. Then Lt Gallopy called a parade with packs and a search was made by Cpl Dorrow and I was present when he found the wallet. It was found in Spr Gosselin's ~~pack~~ bag. His bag was on the ground

in front of him. Then I called my section and resumed work

Cr. Exam. There was only one ration bag there on the ground. The others were small packs. I cannot identify the bag. The Sgt searched us on the pontoons. Cpl. Levac was just opening the bag when I turned my head. Then he took out the wallet.

No Re Exam.

By the Court. When we found the wallet just we told Mr Jarvis about it. Since we did not know who it belonged to we left it there - so that we could see who picked it up. I can't say that I looked for any marks on the bag. This was a regular Army issue ration bag, khaki colour. There was no small pack. The wallet was taken out and then pushed back. This particular bag which the wallet was found in was by itself - it was 8-10 feet from any other."

R.P. 83 B. Completed oath.

3rd Witness. D15617 P/Sgt Charbonneau R.H. 3 Bn. R.C.E. Sworn, States:

"On 17 Sep. 45 as I was working on the pontoon br. at 1030-1100 hrs I found a corpse. I asked for some help. As soon as we got the corpse we put it on the pontoon. We began a search to establish his identity. I found on the corpse the identity

papers, his Wallet and some personal effects. It was a blue Wallet which contained two 50 guelder notes - 1 - 20 guelder note and 7 - 10 guilder notes. I also found some photographs When I took out the personal belongings and the wallet I put them on the pontoon beside the corpse. I continued to search for other papers. Then I found an identity card with the name of William Arthur Kacka, F10. When I was done searching I wanted to take all the belongings I had found but then I discovered the Wallet was gone. I can't say who all were on the pontoon - but when I was done searching and accidentally a search of the pontoon I saw that the accused was there. I asked if anyone had taken the wallet. The accused was there then - but nobody answered me. I then told P.S. Pearl the men. I saw Lt Geurtjes and asked him to search the men. Afterwards we searched them one by one. No-one found anything. Nobody searched me. Then Sgt Verville, the accused and two or three others and myself took the Corpse to the South side of the river. Then we came back to the North Side of the river. After this - I was present when the men were paraded with their small packs and mess tins. They were paraded in line with their small packs - each one has to pick up his own and it was placed on the ground in front of him. Then Cpls Dorrow and Gosselin searched the small packs which were before the men. When Cpl Dorrow got to the accused he found the wallet in the accused's ration bag - it looked like a white ration bag.

The accused at this time said something in English but I didn't understand it. The same wallet which was found in the ration bag was the one which I had found on the corpse. The ration bag was very dirty. I don't know whether it was a ration bag or a mess tin cover.

Cr. Exam. None

By the Court - When I first saw the wallet was missing I didn't see the accused on the pontoon. When I went to make the search the accused was there. Two or three [four] minutes elapsed between the time I noticed that the wallet was missing and the time the search was made.

By the Def Off thro' the Court.

The corpse was put on the pontoon and moved if I remember rightly. It was then hooked to a tug the body remaining on the pontoon. while it was hauled to the other side.

RP 83 A complied with.

4th Witness. B-7966 Gr. FONTAINE, M.J. 3 Bn. R.C.E. Sworn, States.

"On a day in April we were working on the Maas River, on a tug pulling out anchors, I was on the pontoons. I saw Gr. Dieuellow getting off the pontoons

on the North Side of the river on the banks. I didn't see what he did there. He was alone when he got off the pontoons. I didn't see him after that. I was searched on the pontoons. He went on the bank on the North Side before we were searched. I don't remember whether the accused was on the pontoons when we were searched.

Cr. Exam. The witness points to Ex A and states that - "I was on the middle row of pontoons when I saw the accused leave the pontoons and go to the bank". I didn't see anyone else on the North bank then. He was just on the North Bank.

By the Court. When I saw the accused leave the pontoons the R/Sgt was there searching the body. There were many others around the corpse.

R.P.S.S.(B) Complied with.

5th Witness. E48443 Cpl DOIRON, A. 3 Bn R.C.E., Sworn, States:

On 12 Apr 45 between 10.30 and 1100 hrs we found a body in the river. We pulled the body out and searched it for identification. We found a wallet with money in it. R/Sgt Charbonneau took the wallet and put it alongside the body and kept on searching. There were quite a few fellows around.

after the body was searched. L/Sgt Charbonneau found that the wallet was missing. Just at this time Spr Quenellon was on the hill on the North Bank with his mess tins. A parade was called and the fellows were searched on the pontoons. Spr Quenellon came back on the pontoons and was in the line-up and was searched and nothing was found on anyone. When I saw him on the hill on the North Bank of the river he had his mess tins in his hands and was walking around with them. They were in a ration bag. I was 25 to 30 yds away and could see well. Then L/Sgt Charbonneau and others took the corpse over to the other side of the river. Then when they came back they formed the fellows up with their mess tins. I was searching and started at one end. Then mess tins were on the ground in front of them. When I got to the accused I found the wallet. It was a blue wallet - it was wet - it was the same wallet which L/Sgt Charbonneau had found on the corpse.

Cr. Exam. I only saw the accused leave the pontoons from the time the corpse was found until the men were searched. I would have noticed anyone else if they had gone around where the mess tins were. Anyone who was on the beach was more to the left - in the direction of the dump (marked on Ex A) I did not see

Sjts. Cauthre or Bell there.

Re-exam: I don't think that Sjts Cauthre or Bell came on the pontoons.

By the Court: Nothing.

RP 53 B. Complied with.

6th Witness. D96376 CPL LEVINE L. ~~E 47946 SGT LINCOLNSHIRE R~~, 3 Bn. R.O.E, Newark, Notts.

"On morning of 12th Apr 45 on the orders of L/Sgt Charbonneau, I searched the packs of the men working at the pontoons on the Mass. River. On the beach, inside a mess tin cover I found a wallet. It was a blue wallet. I had seen this wallet on the pontoon when L/Sgt Charbonneau had got it from the tunic of a flying officer dead body. I put it back in the same place because we were not sure who the mess tins belonged to. Later on I was in the line when we were paraded without our mess tins and packs. The wallet was found in the same mess tin covers I had found them in. They were in front of the accused on the parade.

Cr Exam. I found the wallet in the mess tin covers in a brown bag. There were another men on the bank at this time. We all arrived at the bank at the same time to start searching. There were other searching

By the Court.

After I found the wallet Cpl Gosselin came alongside of me. I was on the barge when the first search was made. I was searched on the barge too. Cpl Gosselin searched me. They searched all our pockets - inside our jackets - down our pant legs.

No questions arising out of examination by the Court.

R.O. 83 B. Complied with.

7th Witness E41546 SPR LAPOINTE, A., 3 Fd. R.C.E., sworn, states.

"On 12 Apr. 45 I saw the accused, whom I know, squatting in front of me on the portoons. He was searching among some papers next to the corpse almost under his leg. He circled around me then he went up on the hill. I saw him with his mess tins in his hands on the hill - this was approx 25 or 30 feet away. I then saw him go back to the portoons. There were no others around when the accused went up on the bank. ~~I went to the hill before I left the barge~~. I was searched myself and Quaillon was searched at the same time. I saw him go to the bank before we were searched.

Cr. Ex. I saw him look around among the papers but I didn't see him take

anything

No re-exam.

By the Court. The accused was right next to the corpse. He was squatting down alongside the corpse. There was no other kneeling there that close. He left within about half a minute after he was looking thro' the papers alongside the corpse.

RPS3B Complied with.

The Prosecution is Closed.

The Def Offcr. Submits that No prima facie Case has been established on the following grounds:-

(1) failure to prove "improper possession"
(2) No eye-witnesses to removal of bodies
(3) Not proper panel - everyone not standard
(4) Conflict in evidence of prosecution witnesses.

The Pros. Offr. Did not Reply.

D.6. The Defence.

1st Witness for Def. The accused, sworn, States:

On morning of 17 Apr 45 I was detailed by Sgt Chaplean to pull up anchor with a boat. A body was found and I was in a boat in the water. I pulled the boat onto shore, jumped off and goes up on the pontoon. I takes a dime of the boys, looks at the

body then I happened to turn around and see my boat going down Stream, just barely moving. I gets off the pontoon & grabs a hold of my boat, took it to shore, pushed a pin in the ground to hold it and came back on the pontoon and one of the Opls was saying there's a wallet missing and everyone's going to be searched. I was searched, then after I helped take the body across the river, came back and walked on the North bank, was talking to some of the boys a few minutes when Sgt Charbonneau said "everybody line up We're going to search the packs". The wallet was found in my mess tin covers. The officer came up to me and said he was placing a charge against me. I said "Sir. Somebody put it in my Mess tin". That's all I said. There were others detailed with me to pull up anchors. I did kneel close to the body on the pontoon because the man didn't look as tho' he was drowned. I pushed him on the chest but no water came out. I went over with the pontoon when we took the body to the South bank. But I didn't take the body from the pontoon to the South shore.

Cr Exam. I didn't go to my mess tins before the pl pont were searched on the pontoon.

By the Court I know three men who said I went to the North Bank to my mess tins as not

telling the truth. I don't speak Fr. . there may be something in that. There's no reason that I know of except that which may make them say that. I have no particular enemy in the Pl. My mess tin covers are not marked with my name. I don't know how the wallet got in here. I believe someone wanted to get rid of it and put it in the first place they found. I don't know why this wallet wasn't thrown into the water - or the long grass. I never had my mess tins in my hands since the last search. There was another pack right beside mine. I had never seen the wallet before it was taken out of my pack. I never fumbled around with my fingers alongside the corpse. I just had him on the chest - that's all I done. I didn't help the R/Dgn search the corpse. I did see emergency rations which had been taken from him. I also saw some kind of a waterproof bag. There might have been stuff underneath there. I was kneeling down beside the corpse. I didn't see what he took out or nothing.

There were numerous others there. There were no others crouching that close that I know of.

By he Def Brought the Court

There were 25 or 30 men on the pontoons. I can't say how many were on that same pontoon but there were 5 or 6 anyway. I can't name those who were there outside of R/Dgn Charbonneau and myself.

RP 83 B complied with.

2nd witness for Def

D1567. Sgt Veroille, R. 3 Bn. R.C.E. sworn, states.

"On morning of 17 Apr 45 I was lifting anchors with the accused and L/Sgt Chapleau. I was with the accused from the time the body was found until it was searched. I was on the pontoons. I was close to the body - right behind the body on the pontoon. I can't say where or not the accused touched the body."

Cr. Exam

The accused was talking to me for a while - I think he was around - I can't say he was always with me.

By the Court

I didn't see the accused go away or come back. The Sgt was astride the body I was behind him. The accused was in many positions - down and up. There were others there. L/Sgt Charbonneau split the pockets and took out the money. One took a button for a souvenir. I can't remember who the others were. I got off the pontoon we were using and jumped on the other pontoons. I didn't see the accused again for 5 minutes. I saw the blue wallet after it was taken out of the pockets of the corpse and I saw the money in it. I didn't see the accused pick up the wallet or any other papers. The things taken from the body were put in a waterproof container by the Sgt and placed between his legs. The accused when he crouched was on the opposite side from where the bag and the papers were.

- R.P. 83B. Complied with.

3rd Witness for Def. — W/59352 SPR BELL GN., 3 Bn. R.C.E.

Sworn, States, -

"On 12 Apr 45 I was not on the pontoons when the body of the Air force Officer was found. I was around the Dump (Shown on Ex "A") I saw there was a group standing around and when I got over there I found there was a wallet missing. There were other milling around between the dump and the bank. I remained on the pontoon after the search. I was on the bank when the body was taken across the river."

Cr. Exam. — Before I was searched on the pontoon I did not see the accused come on the shore. He could have come on the shore without me seeing him. I don't feel that there is any feeling here between Sr. Operating and Eng Operating pers.

By the Court — There were no obstructions to my view from where I was working. I could see up & down stream for 100 yds. I did not see any boat drifting in the river.

R.P. 83 B Complied with."

4th Witness for Def. — F/35004 SPR HOLMES WE 3 Bn. R.C.E.

Sworn States.

"On 12 Apr 45 I was on the pontoons in the Meuse River. I did not stay there all the time. I went up back of the dump to get my turns. They were still searching the

body when I left. There were some standing just a few feet from the pontoons on the banks. I did not see the accused leave the pontoon. I did not see the accused bend or kneel or take anything from the body.

Cr. Exam. I went upon the banks about 100 feet when I went for my tents. There was no one around the Messing equipment that I could see.

By the Court. I was only off the pontoons for a few seconds I saw Lt/Sgt Charbonneau take a watch out of the pockets of the Corpse.

R.P 83 B Complied with

5th Witness for Def. D.16709 Sgt CHAPLEAU, J.B. 3 Bn. R.C.E.
Sworn, States.

"I detailed the accused to light an Oxo on Nov 45 There were 5 in all detailed. I was also on the boat. When the body was found we all went up to see. The accused was with me all the time. We got off the pontoon to the tug boat. The pontoon we were on was later hooked on the ground. I saw him on the pontoon. I have known the accused since Jan 45. He has always been with my pl. He was a good worker. I don't know much about the question of honesty. He is known as a quiet fellow. I would entrust the accused with any kind of work which required an honest man.

(No Cross Exam or questions by Court)

R.P 83 B. Complied with.

DEFENCE

Mr President, Members of the Court.

The object of the trial is to determine two classes of questions: Question of facts, question of laws.
By pleading not guilty the accused has raised two issues:
First- Whether the facts charged against him happened?
Second- What is there legal consequence ?

The defence do not denied that someting happened, but sustained that the evidence produced by the prosecution does not prove the guilt of the accused

Facts: the first issue remains to be proved.
Let's imagine for a moment 25 to 30 men standing on a standard bridge pontoonlooking at a dead man who has been taken out of the water.
Picture the movement of the crowd for a moment ; the one's who saw the body taken out of the water looking at it for a while, then moving back to tell some other of the incedent, then these new one's arriving on the scene.
Meanwhile search of the body went on,. Odds and ends where found including a wallet containing money. Few minutes later , without nobody seeing it the same wallet dissapered. Strange it seem that a wallet seen by 30 persons would dessappear ?
At this moment order is given to search everybody, Lt. Gariepy who gave the order state in his evidence:"I immediatly gave order that no one was to leave the pontoon, and had every one search, but without results. The men scattered and went back to work."
The search went on without the knowledge of the sappers. It went on, went on. everything was thoroughly inspected, after a while somebody decided to search the packs that where lined up on the ground some distance away. There in a ration bag or a mess tin cover , was found the wallet they were looking for.
Cpl Levac who found the wallet state:"The wallet was in a ration bag which we could not identify/. So we put it back where we found it." Cross exhe State " Allmost everybody was there at the time I found the wallet. We allwent to the bank together. Oters were searching too."
He then left the wallet there and went to notified Lt Gariepy that he had found the wallet
Everybody was then ordered to line up in front of there respective belonging
A search was restarted, and the wallet was refound in Spr Quevillon ration ration bag.
Does this prove improper possession ? I say No.
I ex plain myself.
A wallet containing money dessappered in front of 30 person; a searched is ordered.
Was everybody search ? No.
L/sgt Charbonneau state that he as not been search and as been with the body all the time.
Lt. Gariepy state that 20 men only has been search.
Where was the wallet when the search went on ? Facts.
Why was not the wallet and the ration bag taken down to Lt Gariepy when it was found by Cpl Levac? Facts.
What are the proves that the ration bag even belong to Spr Quevillmm. ?
What happened from the moment the wallet was found in the ration bag, notification of Lt Gariepy, the order of the line up and the carrying out of the order.? Facts.
Spr Holmes state " After the body was taken out of the water I went off the pontoon to get my coat, I wnt 100 yards on the bank ,I did not see any one near the sacks bwt but men where scatthered on the beach.
Spr. Bell [illegible] When I reach the Pontoon a searched of everybody there was starting , there were some men going to the pontoon with me at that time..
Gentlemen of the court who put the wallet in Spr Quevillon 's bag?
Was it hinself ?
Or was it sombody else?
Considering the burden of proof, regard must be had to two rules.
First.. That every ma is presumed innocent until he is proved to be guilty

Second.. That who alleges facts must proved them.

The defence declare that the prosecution as fail to prove the guilt of Sor Quevillin
Demand that he shall be found not guilty and acquitted

J.O.R. Rochon fils
defending officer

Summing up: PROSECUTION.

When Lsjt CHARBONNEAU found the wallet on the pontoon, Spr QUEVILLON was there.

After that, and previous to the search, Spr QUEVILLON was seen on the bank with mess tins in his hands; three witnesses saw him on the bank and two witnesses saw him with the mess tins in his hands, the same mess tins that the wallet was found in and which proved to belong to spr QUEVILLON.

Spr QUEVILLON denies going to the bank at all before the search on the pontoon. Would three witnesses perjure themselves to have a man convicted ? They might if it was to discriminate themselves, but this is not the case here, as none of these three witnesses was ever involved with the wallet at all.

Some men actually were on the bank after the wallet had disappeared, but they were nowhere around the hill where the men's small packs were lying; they were at the small dump or on the BRIDGE WHICH WAS NOT DISMANTLED yet and which was west of the men's equipments. No one but Spr QUEVILLON was seen on the hill and anyone on the hill could not have been missed by the personnel on the pontoon.

The only man near the body who was not searched, is Lsjt CHARBONNEAU, but he did not go to the north bank before the wallet disappeared.

The one man who could have put the wallet in Quevillon's ration bag is Cpl LEVAC. Why should he do that? He had been searched and nothing was found on him. Why should he throw away a wallet which no one had found on him and by throwing it away, why should he incriminate an innocent man? Even if he had wanted to get rid of the wallet, he could have thrown it in the water; why go about it the long way and take a chance of being found out by Cpl Gosselin who was right besides him when he found the wallet? Cpl Gosselin says that he saw Cpl Levac pick up the mess tin cover, get the mess tins out and then get the wallet out; there was no funny business.

All the facts show that Spr QUEVILLON put the wallet in his mess tins before he was searched on the pontoon, and a bit of reasoning only prove that the facts don't lie and that no one else put the wallet there. Therefore, spr QUEVILLON is guilty of improper possession as charged.

M I Wermenlinger Capt
Prosecuting officer

SUMMING UP BY JUDGE ADVOCATE

It is my duty at this time to sum up in this matter. The accused in this case is charged under AA Sec 40 WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE, in that he, in the field at about 1100 hrs on 12 Apr 45 was improperly in possession of a wallet containing 140 gldrs found on the dead body of F/O William Arthur KALKA, of 83 Gp 486 N.Z. Sqn, R.A.F.. My function here is to direct the court on all matters of law, who are the sole judges of all questions of fact. If I throughout the course of this trial have at any time said anything or in any way indicated what opinion I may hold regarding any of the facts which have been brought before you, you are to disregard it. The conclusion you come to must be your own conclusions based on the evidence. This consideration should be unbiased from any prejudices or any pre-conceived opinions which you may hold on this matter.

I feel it my duty first to say something regarding circumstantial evidence, because here that will be one of your chief considerations. From the circumstances in which crimes are ordinarily committed it follows that direct evidence of their commission is not always obtainable and that in very many cases reliance must be placed on circumstantial evidence. That is so in this case because here the evidence is that no one actually saw the accused person with the wallet in his hands. Such evidence is in no way inferior to direct evidence and in some respects superior to it, for it has become a proverb that "facts cannot lie" whilst witnesses may. On the other hand it must always be borne in mind that if facts cannot "lie", they may and often do, deceive. In other words that the interpretation which they appear to suggest is not that which ought to be placed upon them. Therefore, before the court finds the accused person guilty on circumstantial evidence it must be satisfied not only that the circumstances are consistent with the accused having committed the act but that they are inconsistent with any other rational conclusion than that the accused was the guilty person.

Another point which I feel I should cover with you is the question of onus of proof and reasonable doubt. The onus or burden of proof is on the prosecution. It is for the prosecution to prove the accused guilty of this offence. It is not for the accused to prove himself innocent. Throughout our whole system of justice, both civil and military, there is this one principle of British justice ever pesent and if you feel that the Prosecution have not satisfied that burden and have not made out a case against the accused, then the accused is entitled to an acquittal. The Prosecution must prove his case beyond all reasonable doubt. The expression "reasonable doubt" is one of difficult definition but it can be interpreted to mean that if in the mind of the court there is any doubt of sufficient circumstance that it would put the court on their guard against reaching a conclusion, then that is a reasonable doubt and the accused must be given the benefit of any such doubt. It must be such a doubt however, as upon a calm view of the whole evidence a rational understanding would suggest as an honest heart.

As I have explained, the accused here is charged with an offence under AA Sec 40. In this case you must consider whether the acts alleged have been proved and if you find that those acts have been proved then you will consider whether the particulars proved constitute the offence. When making your decisions you may decide which of the witnesses who have been called here today you choose to believe. There is some conflict in the evidence and you may accept or reject any or all of the evidence given by any particular witness or witnesses. You have had an opportunity to hear the evidence given by the witnesses and see their manner, bearing and demeanour in the witness box. You likewise will decide what weight you choose to give to the evidence of the various witnesses. Some of the inconsistencies here might have been such as would tend to shake your belief in the credibility of this or that witness or witnesses. Such considerations are all matters which you must decide.

...../2

As I have explained in the beginning this charge is under AA Sec 40 and it is hardly necessary for me to say of course, that you must be satisfied that such an act if you believe it proved here, that of taking a wallet which had been removed from a dead flying officer, is an act contrary to the prejudice of both good order and military discipline.

The facts in this case are fairly simple and unless you wish it, Mr. President, I do not propose to review the evidence again unless you have something further. That is all I have to say.

J.A.: Mr. President, are there any further matters on which you wish me to advise the Court?

Pres: No sir.

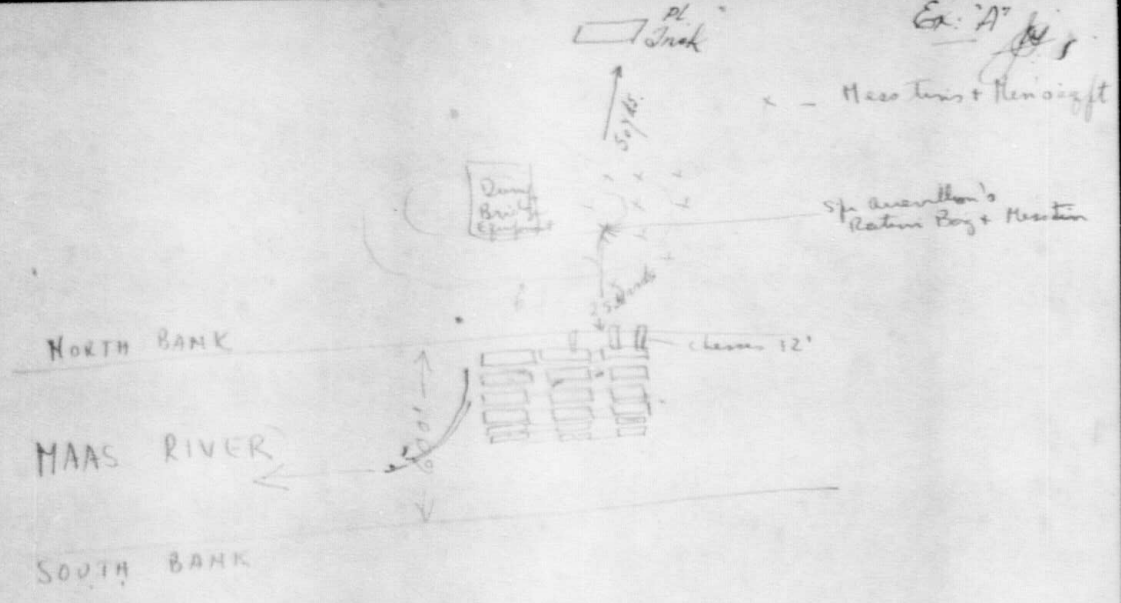
J.A.: Mr Prosecuting Officer, are there any further matters on which you wish me to advise the Court?

Pros: No sir.

J.A.: Mr. Defending Officer, are there any further matters on which you wish me to advise the Court?

Def.: No, sir.

R. Williams
Maj
DJA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SOUTH BANK

Ex 'B'

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TH—440 (6466-1)
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A.F.B. 276

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L-22950	Spr	Quevillon, Raymond	3 Bn RCE

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, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	AA 15 (1) - one (1) times	AA 40 - twice (2) times
For	times	AA 15 (1) - twice (2) times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

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

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

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

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 nil days in ~~Air Force~~ civil custody, and 24 days in military custody, making a total of 24 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service is~~ attestation paper is 22 years-11 mos-28 days

6. The date of his commission specified in his ~~record of service is~~ attestation paper 25 Apr 41

7. The service which the accused is allowed to reckon towards discharge is 4 years-0 mos- 3 days

8. The accused is entitled to reckon 4 years 0 months 3 days service for the purpose of determining his pension, etc.

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

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 Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number Rank Unit Regiment Name of

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	Provisions Received

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 ~~20 TH~~ 5 TH MIW day of ~~April~~ MIW MAY 45 A E Chowden Capt Adjt 36th R.C.E.

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

Summary of evidence in the case of
L 22950 Spr Quevillon Raymond of
"A" Coy 3 Bn RCE placed on Active
Service.

The Commanding Officer directs that the evidence be taken on oath :-

First Witness for prosecution

E 46443 Cpl Doiron, A , A Coy 3 Bn RCE having been duly sworn states :-

On 12 Apr 45 at about 1045 hrs I was on the pontoon when L/Sjt Charbonneau found a body in the river. After searching the body, he found a wallet containing money, and put it in a bag containing maps. After L Sjt Charbonneau was through with the search, he noticed that the wallet was missing. He searched the men on the pontoon and found nothing. Before the search, I had noticed Spr Quevillon go up the North bank to where the packs were lined up, and I saw Spr Quevillon with his mess tins in his hands ; he came back to the pontoon, was searched with the others ; after the seach, he went with L Sjt Charbonneau to take the body on the South bank. During that time we (Cpl Gosselin, myself and many others) searched behind decking on the North shore, small packs etc... Some one found the wallet in a ration bag ; I think it was Cpl Gosselin who found it. He put it where he had found it as we did not know who the ration bag belonged to. When all the Pl men were back on the North Shore, we searched again with the Pl lined up, and I found it in Spr Quevillon's ration bag. Lt Gariepy was present when I found it.

Cross-examined by the accused :-

Q-1 Did you touch it or not the first time it was found ?

A-1 No.

Q-2 Did you or did you not tell L Sjt Charbonneau about some one finding it the first time ?

A-2 I don't think I told L Sjt Charbonneau because he was gone to the South bank at the time, but we told Lt Gariepy and showed him where it had been found.

The above record was read back to the witness.

A Doiron
.....
E 46443 Cpl Doiron, A
A Coy 3 Bn RCE

Second witness for prosecution

D 15617 L Sjt Charbonneau, R.H. "A" Coy 3 Bn RCE having been duly sworn states :-

On 12 Apr 45 at about 1045 hrs I was working on the North Shore of the MAAS dismantling the RAVENSTEIN br, when I saw a body floating between two pontoons With Cpl Levac I fished the body out, put it on the pontoon and started to search it for identification papers. Amongst other things, I found his wallet contining 180 gldrs I put this wallet in a small bag conteining maps, and kept on searching. I discovered that the body had been F/O William Arthur Kalka and that he belonged to the RAF. When I was through searching, I gathered everything together and noticed that the wallet had disappeared. I advised Lt Gariepy, my Pl Offr. We organized a search of all the Pl Personnel present on the pontoon, and found nothing ; we took the body to the south side of the river came back to the North side and searched the small packs of the Pl. These small packs were lined up on the ground on the br site. Cpl Doiron A found the wallet in Spr Quevillon's ration bag, in the presence of Lt Gariepy and myself

Cross-examined by the accused.

Q-1 Was the wallet found while you and I were on the South shore of the river with the body ?

A-1 No, it was found after we had come on the North shore.

Q-2 After searching the Pl Personnel on the pontoon. Cpl Doiron was searching the small packs, found the wallet in one of them brought it over to you ; you then told him to bring it back where he found it, did you not ?

A-2 No, after searching the Pl Personnel, Cpl Doiron came to me and told me that when I talked about a search Spr Quevillon left the Pontoon and went to the bank, where the Pl equipment was lined up and came back to the pontoon.

The above record was read back to the witness.

R.H. Charbonneau

D 15617 L Sjt Charbonneau RH)
A Coy 3 Bn RCE

third witness for prosecution

E 16013 Cpl Gosselin, R "A" Coy 3 Bn RCE having been duly sworn states :-

On 12 Apr 45 at about 1100 hrs, I was detailed by Lt Gariepy to search for the wallet which had disappeared. While L Sjt Charbonneau and Spr Quevillon were gone to the South bank of the river with the body, I found the wallet with Cpl Levac. The wallet was in a ration which we could not identify. So we put it back where we had found it, told Lt Gariepy about finding it. When the whole Pl was together, we had everybody pick their own equipment, and Spr Quevillon picked up the ration which contained the wallet.

Cross-examined by the accused.

Q-1 Did you get permission from anyone to go through the packs.
A-1 I got orders from Lt Gariepy.

Q-2 Was anyone near my pack when you found the money the first time ?
A-2 No.

Q-3 Did you touch it or did Cpl Doiron touch it or take it out of my pack ?
A-4 I did not touch it and Cpl Doiron was not there

The above record was read back to the witness.

.....
(E 16013 Cpl Gosselin R)
A Coy 3 Bn RCE

Fourth witness for prosecution

L 36293 Spr Tremblay J, A Coy 3 Bn RCE having been duly sworn states :-

On 12 Apr 45 in the morning I can't remember what time it was. I was on the pontoon when L Sjt Charbonneau found the body. I saw L Sjt Charbonneau take the wallet out of the body's pockets, and count the money. After that I heard L Sjt Charbonneau say that the wallet was missing. After that, just before the search. I saw Spr Quevillon leave the pontoon, go on the bank and come back to the pontoon. I do not know how far on the bank he went, and I cannot remember how long he was away.

Cross-examined by the accused.
Q-1 Did you see me with the wallet ?
A-1 No.

The above record was read back to the witness.

.....
(L 36293 SPR TREMBLAY JK
A Coy 3 Bn RCE.

fifth witness for prosecution

Lt GH Gariepy , A Coy 3 Bn RCE having been duly sworn states :-

I am the offr in charge of No 1 pl "A" Coy 3 Bn RCE.

On 12 Apr 45 at about 1045 hrs we were dismantling a bridge on the North shore of the MAAS river. A body was found caught under a pontoon; it was pulled out and put on a pontoon,during that time all the men had gathered around the body while L Sjt Charbonneau was proceeding with the search of the same body. Suddenly L Sjt Charbonneau told me that a wallet containing money he had pulled out of the body's pockets and laid aside, was missing, I immediately gave order that no one was to leave the pontoons and had every one searched , but without results. Then the men scattered and went back to work, and myself and a few others searched amongst the mess tins and in other places where the wallet could have been hidden. A few minutes later Cpl Doiron, Cpl Gosselin and Cpl Levac came to me and said they had found the wallet in one of the ration bags but it did not seem as if anyone was sure as whom the ration bag belonged to. On the return of L Sjt Charbonneau who had gone across the river to take the body to the South shore, I ordered him to have the men fall in in one rank with their mess tins in front of them. I then told Cpl Doiron to begin to search starting from the left flank while L Sjt Charbonneau , Cpl Gosselin and myself were watching . Arriving to Spr Quevillon's turn, Cpl Doiron found the wallet in his ration bag. Spr Quevillon said that some one must have put it there. I told him I would lay a charge against him.

Cross-examined by the accused.

Q-1 Did I try to do away with the wallet as if I knew it was in there ?

A-1 No.

Q-2 The first time the Cpls found it did they bring it up and show it to you ?

A-2 No.

The above record was read back to the witness.

GH Gariepy

.....

(Lt GH GARIEPY) Lt RCE

A Coy 3 Bn RCE.

Sixth witness for prosecution

B 22966 Spr Fontaine, M.J. A Coy 3 Bn RCE having been duly sworn states :-

On 12 Apr 45 in the morning , while we were on the pontoons after the body had been found, I saw Spr Quevillon leave the pontoon to go on the bank. This happened before we were searched in the pontoon. I don't know how far Spr Quevillon went in the bank or how long he was away, because I turned my head back to the corpse after I saw him leave the pontoon.

The accused declines to cross-examine the witness.

The above record was read back to the witness.

.....
(B 22966 SPR FONTAINE MJ)
"A" Coy 3 Bn RCE.

Seventh witness for prosecution

E 41546 Spr Lapointe A , A Coy 3 Bn RCE having been duly sworn states :-

On 12 Apr 45 at about 1030 hrs , after Lt Sgt Charbonneau had found the body I saw Spr Quevillon , who was in front of me, bend over and take something near the body, a bag or a wallet.; he looked in it; at that time I turned my head ; so I dont know exactly what he had in his hand or what was in it. Less than a minute after that , I saw him go around me, leave the pontoon go on the bank, pick up his ration bag put it back on the ground and come back to the pontoon, He was alone on the bank. I do not remember if Spr Quevillon came back before or after the search on the pontoon.

The accused declines to cross-examine the witness

The above record was read back to the witness.

Lapointe A.....
(E 41546 SPR LAPOINTE A)
A Coy 3 Bn RCE

The accused was cautionned 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".

After the above caution the accused declines to give any evidence.

I certify that the foregoing Summary of Evidence consisting of 5 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.

.....
(WJ WERMUTHLINGER) Capt RCE
A Coy 3 Bn RCE

in the field.
15 Apr 45.

15 Apr 45

Officer Commanding
3 Bn RCE

I wish that an officer be assigned to act as defending officer

If Lt Rochon of 3 Bn RCE , is available I wish that he may be assigned for this purpose.

.....
L 22350 SPR GAUVILLON,R
A Coy 3 Bn RCE.

To: L 22950 Spr QUEVILLON R
A Coy 3 Bn RCE

Take notice that it is intended to call D 96326 Cpl LEVAC L, A Coy 3 Bn RCE as a witness for the prosecution at your forthcoming trial by FGCM and that he will give the following evidence:

" On 12 Apr 45 at 1100 hrs, I was with Cpl GOSSELIN R searching for the wallet belonging to F/O W. A. KALKA, which wallet had disappeared while L/Sjt CHARBONNEAU was searching the body on the pontoon. Cpl GOSSELIN and I found the wallet in a ration bag which proved later to belong to Spr QUEVILLON. The wallet we found in that ration bag I recognized to be the same as the one which L Sjt CHARBONNEAU had found in F/O KALKA's pockets and which had disappeared from the pontoon."

.....
(WJ WERMENLINGER) capt RCE
A Coy 3 Bn RCE

Ex'C'

No. L 22950 Name QUEVILLON R | Sqn, Battery, or Company | Corps RCE | Date of enlistment 25-4-41 | QC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 60/PA&IOR (2456)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 3 | Signature OC Company, etc 3 | 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
		Sheet 2 Destroyed 1 Jun 43 date of last entry (return to duty) 24 Dec 42							
Field.	23 Dec 43	Spr		AA Sec 40 Conduct to the prejudice.....	Sjt Curtis	14 days Dent	29 Dec 43	S Slater Major.	
Field.	25 Oct 44	Spr		AA Sec 40 Cond , was improperly dressed while at EDINBURGH	Doc	2 days pay FR&I 149(2)	2 Nov 44	MCS Brown Lt Co;.	
Field.	4 Dec 44	SPR		AA Sec 15a(a) AWL from 800 hrs 4 Dec 44 till 1405 hrs 5 Dec 44 absent : 1 day 6 hrs and 5 mins.	doc.	8 days summ forf of pay F&I 149(2).	6 Dec 44	Lt Col MCS Brown.	fort 2 days pay F&I 149(1)(a)

F.P.O.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field.	20-2-45	SPR		AA Sec 15(1) AWL from 2330 hrs 20-2-45 to 0930 hrs 21-2-45 absent : 10 hrs	Sjt Chapleau Spl Gosselin	15 days pay FMAI 149(2).	24-2-45	Maj JJU DO ROADLET.	1 days forf [illegible] FMAI 149(1)(a)

Amended ETS Ward Capt 1.3.44

Certify to be a true and correct extract from the regimental books in my custody.

[signature] Capt

([illegible]) Capt RCE.

125-b. Pte. Quick, H. M.
Carlton & York regt.

10/ Quick, H. M. 1/

328

Correspondence to be PINNED here.

Army Form A.3.

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

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 1st day of June, 1941.

Whereas it appears to me, the undersigned, an officer in Command of 3rd 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; *~~and that it is not practicable to delay the trial for assistance 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 hereunder named.

* Omit if not applicable.

*~~(a) [illegible]~~
~~(b) Three Officers to form the Court.~~
~~(c) A Field Officer as President.~~
~~(d) Three Officers having more than one year's service.~~

for the following reasons, namely :—]

President.

Rank.	Name.	Regiment.
Major	K?P. Harris	WEST N S R

Members.

Rank.	Name.	Regiment.
~~Major~~ Capt	C.H. Bellavance	R 22e R
Lieut	G.F. Johnston	WEST N S R
(Waiting) Capt	J.K. Hayden	Carlt & York R

* 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 [illegible]
Commanding [illegible]
Convening Officer.
Commanding 3rd Infantry Brigade.

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)
G17259. Pte Quick, H.M. Carlt & York R	1st Charge. Sec 18 (4) A.A.	Not Guilty	Guilty 6 Months Detention & Forfeits Good Time Sum of Rs owed Mr Frances	Confirmed
	2nd Charge. Sec 18 (4) A.A. (Alternative)	Not Guilty	Not Guilty	To Corsham Det Barracks Corsham Sec 138 (2) A.A.
	See Charge Sheet Attached			B.L. Jarvis Brig

* 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*): No

(Signed) Charles Bellamy Capt. (Signed) Gerald F. Johnston Lieut.
Commanding [illegible] Officer (Signed) B.L. Jarvis Brig Commanding 3rd Infantry Brigade, (Signed) K P Harris Maj President.

(a) Appointment acting Commanding 3rd Infantry Brigade 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.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Sixth day of June 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:—

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

* Omit if not applicable.

were duly sworn.

Signed this Sixth day of June 1941.

K P Harris Maj
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (2) on page 762 M.M.L. 1920.

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.

D. Confirmation.

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.)

* 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 suspension.

Signed this 9 day of June 1941.

B.L. Jarvis Brig
Confirming Officer.
Commanding 3rd Infantry Brigade.

Promulgated and extracts taken in the case of

(a) (Dated) 9 June 41 (Signed) [illegible] Lieut

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.

[illegible]

CHARGE SHEET

First Charge
Sec. 18(4)A.A.

The accused G17259 Pte. Quick, H.M. a member of the Carleton and York Regiment, a soldier of the Canadian Army (Overseas) is charged with stealing goods the property of a person subject to military law.

in that he

at Caterham on 19 May 41 stole a watch the property of G20032 Pte. Malley, E.J., Carleton and York Regiment, a person subject to military law.

2nd Charge
(Alternative)
Sec. 18(4)A.A.

The accused G17259 Pte. Quick, H.M. a member of the Carleton and York Regiment, a soldier of the Canadian Army (Overseas) is charged with receiving, knowing them to be stolen, goods the property of a person subject to military law

in that he

at Caterham on 19 May 41 did receive a watch the property of G20032 Pte. Malley, E.J., Carleton and York Regiment a person subject to military law, which he the accused knew to have been stolen.

Date 19 May 41

W.C. Lawson Lt Col
W.C. Lawson, Lt.Col.
Commanding Carlt & York Regt.

Commanding 3rd Infantry Brigade

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have examined this morning

No. 7.17457 Irish H.M. Pte.

of Carleton & York Regt. and in my opinion he

is fit to undergo Trial by Court Martial.

Station. Caterham

Date. 6 June 41

J.K. Macleod Capt.
Medical Officer

6th June

Trial of No. 6M7259 Pte Quick H.M.

Lt. K.E MacLauchlan

Lt. D.M. Dickson

nil

no

Questions by the Prosecutor

1st WITNESS — G 20032 Pte. Malley E.J.,
having been duly sworn states as follows;

Question 1. What is your name and regimental number?
Answer 1. I am G 20032 Pte. Malley E.J. Hq.Coy. C.&.Y.Regt.

Question 2. Do you know the accused?
Answer 2. I know the accused.

Question 3. What Coy. is he in ?
Answer 3. Hq.Coy. sir.

Question 4. His rank is?
Answer 4. Private sir.

Question 5. Do you remember the 19 May 41?
Answer 5. Yes sir.

Question 6. Where was the Regt.stationed at that time?
Answer 6. Caterham.

Question 7. Will you tell us anything unusual that happened on that day?
Answer 7. On 19 May 41 between 1730 hrs. and 1800 hours I was having a wash in the billets.I took my watch off,laying it on the mantlepiece.When I was through washing I went to get the watch,and found it gone. I then notified the CSM. of the Company that the watch had been stolen.

Question 8. Was there anybody in the room at that time?
Answer 8. Yes sir. The accused was.Pte. LeBlanc and about six or seven others.

Question 9. Where abouts is the accused billeted?
Answer 9. In the same room as me.

Question 10. Did you make any inquiries?
Answer 10. Yes sir,I asked three or four of the boys in the room.

Question 11. Did you have any talk with the accused?
Answer 11. Yes sir,I asked him if he had taken the watch.

Question 12. What did he say?
Answer 12. He said he had seen it but had not taken it.

Question 13. When did you see the watch again?
Answer 13. On a Monday afternoon a day or so later,in a jewellry shop on the main street in Caterham.

Question 14. Have you the watch?
Answer 14. No sir.

Question 15. Will you take a look at this watch and tell us if it is the one you lost.
Answer 15. Yes sir.

Question 16. Is this the one you saw at the Jewelers?
Answer 16. Yes sir.

Question 17. Do you know what it is worth?
Answer 17. Yes sir. It is worth $9.95.

Questions by the Defending Officer

Questions 1. How long was the watch on the mantlepiece while you were out of the room?
Answer 1. About ten or fifteen minutes.

Question 2. You say there were approximately six men in the room?
Answer 2. Yes sir.

Question 3. Were there some among this group who were not billeted in the room?
Answer 3. Yes sir.

Question 4. Could you say the accused was alone in the room at any time?
Answer 4. No sir, I don't think he was.

Question 5. Would it have been quite possible for anyone in that room to take the watch while you were out?
Answer 5. Yes sir, It could have been anybody.

Question 6. By the Court

Question 1. How can you identify the watch as yours?
Answer 1. A short time ago I took the watch to the jeweler to get minor repairs. The hour hand was shortened some and the strap was sewed at the back.

2nd,WITNESS Joseph Francis,10 Godstone road,Caterham.
Having been duly sworn states;

Question 1. What is the nature of your business?
Answer 1. Jeweller.

Question 2. Would you look at this watch and tell me if you had seen it before?
Answer 2. Yes it was brought into my shop on Monday 19 May 41. The person who brought it in asked me to lend him some money on it.I mentioned that I wasn't in the habit of lending money as I wasn't a pawnbroker. He then asked me to buy it. I refused to buy the watch. He told me a good tale about not having any pay and being hard up so I lent him 10 shillings on condition that he would call for it on pay day,which was in ten days time. I asked him if it was his watch and he told me it was.

Question 3. Did you keep the watch there?
Answer 3. Yes.

Question 4. When did you find out there was something wrong with the transaction?
Answer 4. About three days later when the Officer came in.

Question 5. Can you tell me who left the watch?
Answer 5. Pte. Quick.(turning and identifying the accused)

Question 6. You say this is the watch?
Answer 6. Yes. I offer this watch as evidence now.

By the defence

Question 1. Was Pte. Quick alone?
Answer 1. He had another private with him.

Question 1. By the court
Is the writing on the tag your own?
Answer 1. Yes sir.

Question 2. You put that on as soon as you lent himthe money?
Answer 2. Yes thats right.

3rd WITNESS Lieut. Whitty G.J.
Having been duly sworn states;

Question 1. Will you tell the court your Unit?
Answer 1. I am Transport Officer C & Y Regt.

Question 2. What is Malley's rank?
Answer 2. Pte. Malley is a driver in my platoon.

Question 3. He was such on 19 May 41?
Answer 3. He was.

Question 4. Do you remember receiving reports concerning a missing watch?
Answer 4. I do.

Question 5. About what date?
Answer 5. Tuesday A.M. 20 May 41.

Question 6. Will you tell us what action you took?
Answer 6. I investigated. I called my platoon together and questioned them. That was on Tuesday. I told them all exactly what had happened, and asked them to keep their eyes and ears open for anything concerning same.

Question 7. Did you have some conversation with the accused about the watch?
Answer 7. I did.

Question 8. Will you tell the court what it was?
Answer 8. Acting on information I received from a member of no 5 Platoon, I went over to Pte. Quick during sports parade on Wednesday 21 May 41. I asked him what he knew about it and he said "nothing". I think I said it is very funny you told Private Pelletier you had pawned a watch. He said he hadn't pawned any watch. I told him I was determined to find the watch, so I told him to get Pte. Pelletier who was on the sports parade and bring him to face the accused. He said O.K. I took the watch. (defence objects)

Question 9. When questioning him did you intend to arrest him.
Answer 9. No sir.

Question 10 Did you intend to lay a charge?
Answer 10 No sir.
(objection withdrawn)

Question 11. Will you continue with your narrative?
Answer 11. I asked the accused what he did with the watch and he said "I pawned it. I asked him where and he told me at the jewelry store, two or three doors below the work Shops. He said "I intended to get it out in a day or so".

Question 12. As the result of this conversation did you do anything?
Answer 12. Yes I reported it to the Hq. Coy. Commander.

Question 13 Did you go to the jeweller?
Answer 13 Yes next morning.

Question 14. Did you take anybody with you?
Answer 14. Yes Pte. Malley the owner of the watch.

Question 15. Who had the watch?
Answer 15. The jeweller Mr. Francis.

Question 16. Did you identify the watch?
Answer 16. Yes.

Questions by the defence

Question 1. Did you inquire into the circumstances regarding the loss of the watch?
Answer 1. Yes I did.

Question 2. You found there was quite a few in the room?
Answer 2. I did.

Question 3. Your investigation showed that Pte. Quick was at no time alone in the room?
Answer 3. Yes that would be correct.

Question 4. You at no time saw the watch in the possesion of the accused?
Answer 4. No.

4th WITNESS

Pte. Pelletier A. G 17342, Car't & York R
Having been duly sworn states as follows;

Question 1. What Coy. are you in?
Answer 1. Hq.Coy.sir.

Question 2. Do you know the accused?
Answer 2. Yes sir.

Question 3. Do you remember several days ago having a talk with him?about a watch?
Answer 3. Yes sir.

Question 4. Tell us as near as you remember.
Answer 4. The first thing he told me was that he had pawned a watch. His own watch.

Question 5. Did he tell you anything else?
Answer 5. No sir.

Question 6. Did you see the watch?
Answer 6. No sir.

Questions by the defence

Questions by the defence.
Question 1. Pte. Quick told you he had pawned a watch in the ordinary line of conversation?
Answer 1. Yes sir.

Question 2. You did not question him about it?
Answer 2. No sir.

Prosecution closed

~~4th~~ 5th WITNESS for Defence

Pte. Quick, H.M. G-'7259, Car't & York R
Having been duly sworn states;

Question 1. Will you tell the court what you do?
Answer 1. I am a driver in the transport.

Question 2. Tell the court about any events about the watch.
Answer 2. I was in the room playing poker with the rest of them when Pte. Malley said he had lost his watch.

Question 3. Tell us how many were in the room and what they were doing.
Answer 3. There were four or five playing cards and standing around.

Question 4. Relate how you first saw the watch and any facts concerning the pawning.
Answer 4. I went to town that evening and a fellow from my platoon came to me and asked me to pawn his watch for him. He said he had been to the jewellry shop and he could't pawn it. I told him I would try. He told me he wished to send a telegram home to get some money. He said I could either sell it or pawn it. I went into the jewellry shop and asked about it but was told he didn't take 2nd hand stuff like that. I then asked him if he would buy it but he said "no". The jeweller said he would let me have 10 shillings on it until pay day.

Question 5. When did you again see the watch or hear about it?
Answer 5. I had a conversation with Mr. Witty about it.

Question 6. Tell the court about it.
Answer 6. Mr. Whitty came to me and asked me what I had done with the watch. He told me Pte. Pelletier had said I had pawned a watch downtown. I told him I had and I would get it out payday.

Question 7. Why did you tell him that?
Answer 7. Another fellow in the platoon took the watch and I wouldn't squeal on him.

Question 8. Who was this other man Quick?
Answer 8. I won't tell his name sir.

5th WITNESS CONTINUED

Question 9. You knew Malley had lost a watch?
Answer 9. I did that evening.

Question 10. Did you suspect that that was Malley's watch?
Answer 10. No I did not.

Question 11. What led you to believe you could get money on the watch if the other fellow couldn't?
Answer 11. He said he couldn't but I thought I would try.

Question 12. What did you do with the money?
Answer 12. I gave him the money.

Question 13. Did you have a few drinks that night?
Answer 13. One of the fellows in the workshop gave me a few drinks that night.

Question 14. When you heard Malley's watch was missing why didn't you report it?
Answer 14. I didn't know that it was Malley's watch.

Questions by court

Question 15. Did you admit in front of Lieut. Whitty that you took the watch?
Answer 15. I did.

Question by the defence

Question 1. After pawning the watch you told Pte. Pelletier about pawning the watch?
Answer 1. I did sir.

Questions by court.

Question 1. When Lieut. Whitty asked you if you had taken the watch you answered willingly?
Answer 1. Yes.

Question 2. Did you make an answer and take the blame for that in order to save your friend?
Answer 2. I said I would tell on the other fellow.

Question 3. Did you realize that you were exposed yourself to be charged with taking the watch?
Answer 3. I did not.

Question by defence

Question 1. Is it true Quick that you have a conviction on Court Martial that he will share half the cost of court costs and half the pay?
Answer 1. Yes sir.

6th WITNESS Lieut. T.S. Porter
having been duly sworn states;

Question 1. Your name and position please?
Answer 1. I am Lieut. Thomas S. Porter assistant adjutant of the C & Y. Regiment.

Question 2. Is this the true copy certified correct of the said soldiers M.F.M.6?
Answer 2. Yes it is.

.....

Defence Lieut. D.M. Dickson
Pros. Lieut. K.E. MacLauchlan.

5th WITNESS CONTINUED

Question 9. You knew Malley had lost a watch?
Answer 9. I did that evening.

Question 10. Did you suspect that that was Malley's watch?
Answer 10. No I did not.

Question 11. What led you to believe you could get money on the watch if the other fellow couldn't?
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Question 15. Did you admit in front of Lieut. Whitty that you took the watch?
Answer 15. I did.

Question by the defence

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Answer 1. I did sir.

Questions by court.

Question 1. When Lieut. Whitty asked you if you had taken the watch you answered willingly?
Answer 1. Yes.

Question 2. Did you make an answer and take the blame for that in order to save your friend?
Answer 2. I said I would not tell on the other fellow.

Question 3. Did you realize that you were exposed yourself to be charged with taking the watch?
Answer 3. I did not.

Question by defence

Question 1. Is it true Quick that you have a conviction on Court Martial that he will share half the cost of court costs and half the pay?
Answer 1. Yes sir.

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Question 1. Your name and position please?
Answer 1. I am Lieut. Thomas S. Porter assistant adjutant of the C & Y. Regiment.

Question 2. Is this the true copy certified correct of the said soldiers M.F.M.6?
Answer 2. Yes it is.

.....

Defence Lieut. D.M. Dickson
Pros. Lieut. E.E. MacLauchlan.

Yes

No

—

Page 3

After finding

Lt. T. S. Porter MFM 6

Question to the accused:

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

Answer: yes.

The [illegible] (defending officer) asked the following qes in extenuation of sentence:- No Pleas

Summary of Evidence in the case of G17259 Pte. Qucik, H.M. Carleton and York Regiment.

The summary of Evidence is taken by the direction of the Commanding Officer.

First Witness

G20032 Pte. Malley, E.J., being duly sworn, states as follows:

I am a private in H.Q. Coy., Carleton and York Regiment on 19 May 41 at Caterham I lost a watch. I laid the watch on the mantel piece of my room in my billet in the evening right after supper. I had a wash and when I went over to get the watch it was gone. I reported its loss to C.S.M. Reilly. There were quite a few people in the room at the time. Paul Lewis, Charlie Harrington, and Tommy Foret, Miller and Sprague E.D., Pat LeBlanc, L/Cpl. Buck, Hazen Stillwell. Accused was there too. Most of them are billeted in that room. Accused is billeted there to. That night I asked accused if he had seen the watch and he said no. I did not see the watch again until this morning 22 May, when I went with Lt. G.J. Whitty to a jewellery shop. My watch was there and I identified it. This watch here is the one I lost. I bought it in Canada before coming overseas for $9.95.

Accused declines to cross-examine this witness.

E J Malley

Second Witness

Joseph Francis, being duly sworn, states as follows:

I live in Caterham. I am a jeweller. I have seen this watch before. Accused and another man came to my shop, 10 Godstone Road, Caterham, and accused asked me to lend some money on the watch. I said I was not a pawnbroker and was not in the habit of lending money. He then asked me to buy the watch which I refused to do. Eventually I lent him 10 shillings until pay day, keeping the watch as security. He said it was his own watch and I had no doubt it belonged to him. The first indication I had that anything was wrong was when Lt. Whitty called this morning to inquire about the watch. It was monday or tuesday evening accused left the watch with me. I am not sure which.

Accused declines to cross-examine this witness.

Joseph Francis

Third Witness

Lieut. G.J. Whitty, being duly sworn states as follows:

I am Transport Office of the C.I.R. Pte Malley is one of my drivers. Accused was in my platoon on May 19. As a result of reports made to me I investigated the stealing of a watch in my platoon. Yesterday afternoon I questioned the accused. As nearly as I can remember the conversation was as follows: I asked accused where did you get the watch you pawned the other night and he replied I didn't pawn any watch. I said well you haven't a watch of your own have you? and he replied, I haven't. I said one of the boys in H.Q. Coy. has told me that you told him on Monday night that you had pawned a watch. He replied I didn't pawn any watch. I said I will get the chap who told me this and bring him over to face you. He replied, alright I admit I took the watch but I'll get it out if you don't do anything about it. I asked Quick where did you pawn this watch and he said at the jewellery store near the unit workshop. I went down there with Pte. Malley this morning. We found the watch in the possession of Mr.

Lieut. G.J. Whitty - Cont'd.

Francis , the proprietor, the previous witness. This watch here is the one.

Accused declines to cross-examine this witness.

G J Whitty Lieut

Fourth Witness

G17342 Pte. Pelletier, A., being duly sworn, states as follows:

I am in No. 5 platoon of H.Q. Coy., ~~being~~ Carleton and York Regt. I remember a few nights ago being near the station. I was talking to accused and he told me he pawned a watch. I did not see the watch myself. All I remember of the conversation is that accused told me he pawned the watch.

Accused declines to cross-examine this witness.

A Pelletier

The accused having been duly cautioned in accordance with Rule of Procedure 4 E elected not to make a statement.

Certified that rule of procedure 4(c) (d) (e) (f) have been complied with.
Taken down by me in the presence of the accused this 22 day of May 1941 at in the field.

A E MacLaren

List of Witness in the case of G17529 Pte. Quick, H.M.

Carleton and York Regiment

For the Prosecution

Name	Unit	Place
Lieut. G.J. Whitty	C.Y.R.	Field
Joseph Francis	"	"
G20032 Pte. Malley, E.J.	"	"
G17432 Pte. Pelletier, A.	"	

I, G17259 Pte. Quick, H.M., have no preference as to a defence officer and ask that one be appointed to defend me.

Quick H M

No. 172359 Name [illegible] H | Sqn., Battery, or Company HQ | Corps C-y/R | Date of enlistment | G.C. Badges | Service or Proficiency Pay | Character

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 O.C. Company, etc.

M.F.M. 6 (A.P.B. 123)

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
								W.B. Powell Major	
Howe	29/10/40	Pte		AWL at Tatte See 15 AA	Sjt Wallace FB	4 days CB			
Field	1-1-41	Pte		Conduct to the prejudice of good order and Military discipline See 40 AA In that he at Brighton made a false statement to the Brighton Police pretending to be on regtl business to Brighton his truck had been stolen causing inconvenience, loss of time, unnecessary phone calls to Brighton Police also CYR Dn Orderly room	Sjt Augerton	15 days FB 15 days Pay	2-1-41	H.N. Gurney Lt-Col	
Caterham	3-4-41	Pte		Conduct to the prejudice etc in that he exceeded the speed limit of 25 M.P.H. as laid down for L cars See 40 AA	Documentary	Severe Reprimand		W.E. Lawson Lt-Col	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Caterham	16-4-41	Pte		1) AWL From 2230hrs 16 Apr 41 To 1200hrs 23 Apr 41 Sec 15 12A	PSM Bornton	Forfeits 7 days pay			
Caterham	17-4-41	Pte		2) Conduct to the prejudice etc In possession of a Mil Vehicle Without proper authority	Pte C Howell	pay for AWL 2 days FP w/o loss of pay		W C Lawson	Lt. Col

Certified Correct
26 May 41
[illegible]
Adjt.

X. F.P. Hann
Maj

Pte Quick.

SHORT STATEMENT AS TO PARTICULARS OF SERVICE
OF THE ACCUSED

(a) The accused has been in confinement awaiting trial on the present charges for Nil days in Civil Custody and 15 (fifteen) days in military custody making a total of 15 days of which Nil days were spent in hospital.

(b) The present age of the accused according to his attestation paper is 24.

(c) The date of his attestation specified in his attestation paper is 25 Aug 39.

(d) The accused is in possession of, or entitled to no military decoration or military reward,(or is in possession of or entitled to Nil.

I hereby certify that the foregoing particulars are true extracts from the Regimental Books in my custody.

T. L. Porter, Lieut.
Asst Adjt.
6 Jan 41.

64 M
Pt QUICK V.C.

64 M

Correspondence to be PINNED here.

Army Form A.3.

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

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 20th day of July, 1942.

Whereas it appears to me, the undersigned, an officer in Command of 4th 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; *~~and that it is not practicable to order that the trial may be postponed until a Superior Military 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 ~~mentioned in the margin~~ appointed or detailed hereunder.

* Omit if not applicable.

*~~If any unable to attend:—~~

~~For "Three Officers to form the Court" read "Four Officers to form the Court."~~

~~For "Three Officers detailed above" read "Four Officers detailed above."~~

~~for the following reasons, namely:—~~

In my opinion military exigencies namely the dispersal of units and the difficulties of communication render it inexpedient to observe the provisions of the Rules of Procedure for the trials of persons named in the annexed schedule by Field General Court Martial. Inconsistent with the provisions of Appendix 'A' to DRO 772.

PROCEEDINGS REVIEWED.

President.

Rank.	Name.	Regiment.
Major	T.E. Haymurst	Essex Scot

Members.

Rank.	Name.	Regiment.
a Lieutenant	to be named by O.C.	R.H.L.I.
a Captain	to be named by O.C.	R. Regt. C.
Waiting Member a Lieutenant	to be named by O.C.	R.H.L.I.

* 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 [signature] Brigadier

Commanding 4 Cdn. Inf. Bde.

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)
A.21995 Pte. Victor Cornelius Quick, 1st Bn., The Essex Scottish Regiment, a soldier of the Canadian Army (Active).	First Charge Army Act Section 8(2) Striking his superior officer.	Not Guilty	Not Guilty of "Striking" with his fist but Guilty of using Violence" AA 56(2A)	
	Second Charge Army Act Section 40 Conduct to the prejudice of good order and military discipline.	Not Guilty	Guilty	I confirm BH Brig.
	(See charge sheet attached)	"	6 Months Detention 2nd Aug 42 Hss J Heyhurst maj	

* 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*):— No Adjournment Required.

(Signed) A Mordecai Brig. (Signed) Hss J Heyhurst maj
Commanding 4th Cdn. Inf. Bde. Essex Scott
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious 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.

I certify that the above Court assembled on the 1st day of Aug and 2nd day of Aug 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.

* Omit if not applicable.

Signed this 2nd day of Aug 1942
Hss J Heyhurst maj
President of the Court Martial.

* See footnote (f) on page 760 M.M.L. 1940.

C. Certificate in case of death sentences.

~~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

D. Confirmation.

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.

* 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 suspension.

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

Signed this 3 day of Aug 1942
A Mordecai Brig
Comdg 4 Cdn. Inf. Bde.

Promulgated and extracts taken in the case of

(a) (Dated) 6 Aug 1942 (Signed) J D Green Major

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)
8A

CHARGE SHEET

The accused, No. A21695 Pte. Victor Cornelius Quick, 1st Bn., The Essex Scottish Regiment, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Army Act
Section 8(2)

Striking his superior officer,

in that he,

in the field on the 22nd day of June 1942, struck with his fist C.Q.M.S. Munroe, F., 1st Bn. The Essex Scottish Regt. who was escorting Pte. Quick out of the duty officer's room.

SECOND CHARGE
Army Act
Section 40

Conduct to the prejudice of good order and military discipline,

in that he,

in the field on 1 July 42, failed to arise at Reveille after having been duly warned to do so.

In the field,
17 July 1942.

(F.K. Jamperson) Lt.-Col.,
Officer Commanding,
1st Bn., The Essex Scottish Regt.
Canadian Army Overseas.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the field,
20 July 42.

(Sherwood Lett, [redacted]) Brig.,
Commanding,
4th Canadian Infantry Brigade.

(A)

1 Aug 42.

I CERTIFY THAT I HAVE THIS DAY EXAMINED A 21995

Pte 2 mok V.C.

and find him medically FIT to stand trial by Court Martial.

J. A Fletcher Capt

(Medical Officer)

(E)
AA

CHARGE SHEET

The accused, No. A21995 Pte. Victor Cornelius Quick, 1st Bn., The Essex Scottish Regiment, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Army Act
Section 8(2)

Striking his superior officer,

in that he,

in the field on the 22nd day of June 1942, struck with his fist C.Q.M.S. Munroe, F., of the Essex Scottish who was escorting Pte. Quick out of the duty officers room.

SECOND CHARGE
Army Act
Section 40

Conduct to the prejudice of good order and military discipline,

in that he,

in the field on 1 July 42, failed to arise at Reveille after having been duly warned to do so.

In the field,
17 July 1942.

(F.K. Jasperson) Lt.-Col.,
Officer Commanding,
1st Bn., The Essex Scottish Regt.
Canadian Army Overseas.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the field,
20 July 42.

(Sherwood Lett, [redacted]) Brig.,
Commanding,
4th Canadian Infantry Brigade.

I desire to be represented
by counsel at my proposed
G. C. M. I prefer
Lieut J. K. Hunter

Pte. Victor C. Zurek

(A)

1 Aug 42.

I CERTIFY THAT I HAVE THIS DAY EXAMINED A 21995

Pte 2 mok V.C.

and find him medically FIT to stand trial by Court Martial.

J. A. Fletcher Capt

(medical Officer)

2 Aug 42

I CERTIFY that I have this day examined

A21905 Pte. Quick, V.C.

and find him FIT to stand trial by Court Martial.

J. R. Fletcher

(Medical Officer)

Essex Scottish.

APPENDIX "A"

RECORD OF PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL
(To be completed in duplicate)

(a) TO BE USED IN PLEA OF NOT GUILTY
TO ONE OR MORE CHARGES

1. Trial of No A 21995 Rank Pte Name Quick. Victor Cornelius
Unit Essex Scottish
Held at In the Field on 1 day of Aug 1942.

2. ACTUAL COURT:

Major T.E. Hayhurst, Essex Scot.
Capt. F.L. Nicholls, R. Regt. C.
Lieut. D.M. McIlwain, R.H.L.I.

3. PROSECUTOR: Lieut L.V. Hunter
DEF. OFFICER: Lieut P.O. Lee
(In cases where either prosecutor or defending officer is a qualified lawyer this fact must be noted).

4. The accused is arraigned and pleads "Not Guilty" to the following charges:, E.G. 1st, 2nd, ~~3rd etc.~~ charge.

5. The accused is asked the question at the foot of page 2 of A.F.A.3 and his answer is "no" or otherwise is recorded by the President.

6. PROSECUTION EVIDENCE:

A. 22294 Pte Smith D.G.
In evidence stated that Quick did offer resistance.

A. 21290 L/Cpl Copeland
States Quick offered resistance.

Lieut N.M. Watson
Heard scuffle between Quick & CMS Monroe

Defence Evidence

A. 21995 Pte Quick
When cross-examined answered that he had offered resistance but had not struck C.Q.M.S. Monroe.

Plea in Mitigation

The defence asked the court to take into consideration the fact that Quick was probably a bit resentful toward C.Q.M.S. Monroe because of an argument some two weeks previous, in which Monroe had placed Quick under arrest.

Certified that the foregoing is a true record of Argt
Thos F Hayhurst President

D
9A

ABSTRACT OF EVIDENCE

In the case of A21995 Pte. Quick, V.C., 1st Bn., The EssexScottish Regiment, Canadian Army Overseas.

FIRST WITNESS

A21130 C.Q.M.S. Munroe, F., 1st Bn., The Essex Scottish Regiment, Canadian Army Overseas, states:

"At approximately 2350 hrs on the 21st of June 1942 I was returning to my billets when I noticed two lights burning in "A" Coy lines. I entered one hut and found Pte. Quick talking to three occupants of the chalet. I ordered the light to be put out. I then proceeded to the second chalet. There I found on bed empty and the two occupants of the room asleep. I then returned to the first chalet; the light was still on. I removed the bulb and then went to the other chalet and removed the bulb there also. Pte. Quick followed me out and said he wanted to fight me. I went into Cpl. Copeland's chalet and ordered him to have Pte. Quick placed in close arrest. I then accompanied Cpl. Copeland back to Pte. Quick's chalet. There were three beer bottles in the cabin and I ordered Cpl. Copeland to take them as evidence. Pte. Quick pushed me against the bed in the chalet and tried to dispose of the three beer bottles. He demanded and was taken to see the orderly officer. He became unruly and I was ordered by Lieut. N.M. Watson, the orderly officer, to help subdue him. He struck me in the eye with his fist. I held him until the guards arrived. He had been drinking but I would not say he was drunk."

SECOND WITNESS

A21290 Cpl. Copeland, T.J., 1st Bn., The Essex Scottish Regiment, Canadian Army Overseas, states:

"I am acting Platoon Sergeant of No. 7 Platoon, "A" Coy. At approximately 2350 hrs on 21st of June, I was awakened by C.Q.M.S. Munroe and ordered to place Pte. Quick of my platoon in close arrest. I went to Pte. Quick's chalet and C.Q.M.S. Munroe accompanied me. I ordered Quick into arrest and he got up and put on his doublet. There were three beer bottles in the chalet and I was ordered by C.Q.M.S. Munroe to take them along with me as evidence. Pte. Quick attempted to dispose of the bottles. Pte. Quick demanded to see the orderly officer. He was taken there and saw Lieut. Watson. He became unruly and force had to be used to subdue him. He was placed under close arrest. He had been drinking but I would not say he was drunk."

THIRD WITNESS

A21111 C.Q.M.S. Walsh, F.C.A., 1st Bn., The Essex Scottish Regiment, Canadian Army Overseas, states:

"I was Sgt of the Guard on 21st of June 1942. Pte. Quick was in close arrest. I ordered him to get up at 0600 hrs after having awakened him. At 0615 hrs I returned and the accused was still in bed. I again awakened him and warned him to get up. At 0645 hrs Pte. Quick was still in bed. I placed him on charge."

FOURTH WITNESS

Lieut. N.M. Watson, 1st Bn., The Essex Scottish Regiment, Canadian Army Overseas, states:

"I was duty officer at Norton Camp on the night of 22 June 42. I was resting there when C.Q.M.S. Munroe came in and told me that he had placed Pte Quick under close arrest for drinking in his billets, and that Pte. Quick demanded to be paraded before an officer. I instructed C.Q.M.S. Munroe to bring Pte. Quick in to me and C.Q.M.S. Munroe and Cpl. Copeland paraded him in.

I asked Pte. Quick what he wanted and he stated that he was being rail-roaded; that he had not been drinking in billets and that the bar bottles in his quarters ~~was~~ contained, or had contained, oil. He then repeated his assertion that he was being rail-roaded and stated that C.Q.M.S. Munroe had been drinking.

At this point I ordered C.Q.M.S. Munroe to take him to the guard room. Pte. Quick resisted and C.Q.M.S. Munroe and Cpl. Copeland had to push him from the room.

In the next room I heard C.Q.M.S. Munroe instruct Cpl. Copeland to go for the military police and I also heard C.Q.M.S. Munroe and Pte. Quick scuffling. Cpl. Copeland then arrived back with some men and Pte. Quick was taken away."

I certify that the above is a true and correct Abstract of Evidence as taken down by me in my own handwriting on the 10th day of July 1942.

(J.F. Turnbull) Capt.,
1st Bn., Essex Scottish Regt.,
Officer taking the Abstract.

M.F.M. 6
(A.F.B. 122)

No. A21995 Name Quick, V. Sqn., Battery or Company "A" Corps Essex Scottish Date of enlistment 13-1-40 G.C. Badges: Service or Proficiency Pay:

Date of last entry in Company Conduct Sheet: No. and date of last drunk: Period not reckoning towards freedom from extra fine: Sheet No. 1 Signature O.C. Company, etc.: T.S. Hayhurst 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
Windsor	29-2-40	Pte.	I	Drunkenness	Sgt. MacLaren Cpl. Ritchie	Admonished	2-3-40	C. Turnbull Capt.-Adjt.	
"	30-4-40	"	II	Drunkenness A.A. 19 Creating a disturbance and causing barrack damages to the extent of $5.00. A.A. 24(4)	Capt. Brown Sgt. Adams " Heffernan Cpl. Lucas	Assessed $5.00 bk. damages $5.00 fine Admonished	1-5-40	Lt.-Col. Pearson	
"	2-5-40	"		AWL 2200 hrs 2-5-40 to 0030 hrs 4-5-40. A.A. 15(1)	CSM Waddell	7 days C.B.	6-5-40	Maj. T.S. Hayhurst	Forfs. 2 days pay
Camp Borden	3-6-40	"		AWL 0200 hrs 3-6-40 to 2000 hrs 7-6-40. A.A. 15(1)	CSM Waddell	168 hrs detn.	10-6-40	Lt.-Col. Pearson	Forfs 5 days pay

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden	1-7-40	Pte.		AWL from 0600 hrs 1-7-40 to 2130 hrs 3-7-40. A.A. 15(1)	CSM Waddell	14 days C.B.	4-7-40	Maj. T.E. Hayhurst	Forfs. 3 days pay PRI 149.
Aldershot	10-10-40	"		Neglecting to obey standing orders in that he drove W.D. vehicle recklessly and at excessive speed.	L/C Forsey	5 days C.B.	14-10-40	Maj. Yokes	
Mandora barracks	1-2-41	"	~~1st~~	Drunkenness, third offence A.A. 19.	S.S.M. Henderson Lt. McKnight	Fined $10.00 3rd offence	3-2-41	Maj. F.A. Yokes	
Aldershot	12-6-41	"		AWL from 2359 hrs 2-6-41 to 1145 hrs 12-6-41. A.A. 15(1)	Cpl. Lucas L/C Cantin	27 days F.P.	19-6-41	Lt.-Col. Pearson	Forfs. 27 days pay.
Rye	15-10-41	"		ABI from 2000 hrs 15-10-41 to 0750 hrs 16-10-41. A.A. 15(1)	Cpl. Omellette	10 days F.P.	21-10-41	Lt.-Col. Pearson	Forfs 10 days pay. PRI

No. A21195 Name QUICK, V.C. Sqn., Battery or Company "A" Coy Corps Essex Scottish Date of enlistment 13-1-40 G.C. Badges Service or Proficiency Pay

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. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order suspending with title	By whom awarded	Remarks
Field	31-12-42	Pte.		AWL from 1500 hrs 1-1-42 to to 1615 hrs 6-1-42. A.A. 15(1) Held in close arrest (6 days)	Cpl. McGowan Cpl. Wilson Sgt. Bassil Cpl. DesRoches	28 days detn	12-1-42	Maj. F.K. Jasperson	Fourfs 41 days pay.
Field	20-5-42	Pte	XX	Drunkenness. A.A. 19 Wilful damage to gov't. property AWL 1200 hrs 19-5-42 to 1400 hrs 19-5-42. A.A. 15(1) AWL 2130 hrs 20-5-42 to 2340 hrs 20-5-42 while under close arrest A.A. 15(1)	Cpl. DesRoches	$10.00 fine Stoppage to pay for damages. To forf. 14 days pay.	26-5-42	Lt.-Col. Jasperson	$10.00 fine Stoppages - 20-6-42 14 days pay

Place	Date of offence	Rank	Corps of Soldier	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1-6-42	Pte.		Neglect, etc. "He neglected to arise at reveille and was found in bed at 0640 hrs and was still in bed at 0710 hrs". A.A. 40.	Cpl. DesRoches Sgt. Wilkinson	14 days C.B.	2-6-42	Lt.-Col. F.K. Jasperson	

CERTIFIED TRUE COPY:

(J.H. Turnbull) Capt.,
Adjutant,
Essex Scottish Regiment.

(F)
H

(Substitute for A.F.B.
296 or M.F.B. 388)

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No. A21995 NAME Pte. Victor Cornelius Quick ESSEX SCOTTISH REGT. Cdn. Army Overseas

AGE 22 MARRIED OR SINGLE Married No. OF DEPENDENTS 1- wife

DATE OF ATTESTATION 13 January 40

NO. OF DAYS SPENT IN CLOSE ARREST (TO DATE OF TRIAL)

CIVIL nil MILITARY 39 40 HOSPITAL nil TOTAL 39 40
FF H

DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATION OF RANK, IF ANY:

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

(J.R. Turnbull) Capt.
A/Adjutant,
Essex Scottish Regiment.

Dated at IN THE FIELD
This 2 day of AUG 19 42
FF
(To be dated and signed as of date of trial)

4I-69

GNR QUIN N

4

SCHEDULE.

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

Accused: B88454 Gnr Nelson QUIN, 8 Fd Regt (SP) RCA

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT 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 732, and in lists of KR see RP 44 fn 6.)

"MMS" ~~XXXXXXXXXXXXXXXXXX~~ ~~XXXXXXXXXXXXXXXXXX~~ (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 42 days, of which Nil 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 suffer penal servitude for a term of three years.

(Sgd) "WMWShaw Capt" 14 Nov 44. (Sgd) "George G R Harris Major"
Judge-Advocate, if any. Date awarded. President. (RP 45, 52.)

(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.)

I reserve confirmation of the finding and sentence for superior authority.

Date 17 Nov 44 (Sgd) "H A Sparling Brig" Commanding RCA 5 Cdn Armd Div

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

(For duties and powers see AA 54, 57, RP 371(D) fn 6,46(A), 51-56, 120, MML pp 739-761, KR Con 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 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 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 sentance and I direct that a part of the sentence not exceeding two years shall be served in a military prison".

~~I disapprove the sentence in the case of the accused named in Part I hereof.~~ (1. AA 57A. Delete if not used.)

(Sgd) "E.G. Weeks" Maj-Gen, i/c Adm,

Date 15 Dec 44 Commanding CANADIAN MILITARY HEADQUARTERS
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Con 576, 577.)

Accused. Date. Signature of Offr.

B88454 Gnr Quin, N. 8 Fd Regt (SP) RCA — 19 Dec 44 — [signature] Adjutant 2 Cdn Reinforcement Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY 2 Dec 44
(D.M. Owen) Capt.
Cdn Sec GHQ 2 Ech AAI.

45-69

CPA66 (15 Reg. of AP A15) 4/38B
40/39 & 8/1866 10/43

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig H A Sparling Comd RCA 5 Cdn A Div dated 9 Nov 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 Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-88454	Gnr	Nelson	QUIN	8 Fd Regt (SP) RCA

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 14 Nov 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 INITIALLED BY PRES OF CT. 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 recital of such variation will be made and given a number having reference to appropriate or preceding form number herein. See lists of Convening Orders, CF A91, for suitable entry on how to record questions, evidence, etc., which items are hereafter called "notes". As to general provisions for conducting the trial see AA 52, RP 36, 63-70, 72, 74, 94, 103, 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 each charge discloses an offence.(3)

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

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences.

"MMS" A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~XXXXXXXXXXXXXXXXX

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, ete, 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 all charges, use second alternative in para D8.) After deciding between* (i) *and* (ii), *Court will thereto, or,* (ii) *to record the pleas as the findings of Court. proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *securing 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 pleas 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 ..... (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 8. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 56 *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 to ..... 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 ..... 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 paras 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 C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate 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, Sir. (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

"NAMES" D2. The Prosecutor makes [XX] (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* 535. *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 disclose 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 "NAMES" charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is [~~not~~] found Not Guilty of the latter charges.(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* 80(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(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 Give evidence Do you intend to call witnesses on your behalf ? Ans No Sir "NAMES"
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

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

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
~~IN EXCEPTIONAL CASES WHERE THE PRESIDENT CONSIDERS IT DESIRABLE TO GIVE REASONS FOR THE FINDINGS OF THE COURT, THEY ARE RECORDED HERE.~~
(1. *AA* 54(7) (*c*), *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, Sir.
(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 relate to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (ii), 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.(3)
(1. *MFB* 355 *or AFB* 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 No, Sir. (2)
(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)
(1. *AA* 54(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 J.A. 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 generic, 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, 138, 182, *RP* 48-52, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas AO* 309, 2323, *MML p* 66, 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(18), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *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.

CHARGE SHEET

The accused B.88454 Gunner Nelson QUIN
107 Fd Bty, 8 Fd Regt (SP) RCA
a soldier of the Cdn Army is charged with:-

1st Charge
AA Sec 12
(1) (a)

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he,

in the field on 25 Sep 44 when his regt 8 Fd Regt (SP) RCA was in action against the enemy in a forward area, absented himself without leave from approx 0730 hrs 25 Sep 44 until surrendering himself to CMP at FOGGIA at 2035 hrs 2 Oct 44 with intent to avoid service in such forward area. (absent 7 days, 13 hrs, 5 mins)

4 Nov 44
In the Field
ITALY

"A H Birks"
(A H Birks) Lt-Col RCA
Comd 8 Fd Regt (SP) R.C.A.

To be tried by Field General Court Martial.

9 Nov 44
In the Field
ITALY

"H A Sparling"
(H A Sparling) Brig
CRA 5 Cdn Armd Div

"WAYS"
"GGRH"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate 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) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt	Full Christian Names.	Surname.	Unit.
B.88454	Gunner		Nelson	QUIN	8 Cdn Fd Regt

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, "HAS" being subject to military law, has (~~xxx~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 10 Nov 44 endorsed by me, (~~xxxxxxxxxxxxxxxxxx~~) " To be tried by Field General Court- "HAS" 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 : (~~xxxxxxxxxxxxxxxxx

107th Field Battery, RCA
8th Cdn Field Regiment (SP) RCA

14 Nov 44

This is to certify that the bearer: B-88454 Gnr. Quin, N.
is fit ~~x~~ to undergo a Field General Court-Martial.

14 Nov 44

"Undecipherable Capt" Capt. RCAMC

"WMWS"

I

1st Wit) M2010 BSM Herity J.D., 8 Fd Regt, duly sworn, states:-
Prsn)

On 24 Sep at 1600 hrs A Ech 107 Bty moved to a frwd area where came under shellfire - quite severe at intervals until 1730 hrs I saw Gnr Quin after shelling proceeding in direction of his veh. Did not see again that evening as was busy burying a cas & evacuating wounded. At approx 0730 hrs 25 Sep on my roll call Quin was absent. I searched bty area & where sleeping & made enquiries & could not locate. Also enquired at 61 & 71 Bty & 8 Fd Amb but no trace. I reported him absent. Quin was absent from all my parades after that until turned over to me under escort on 18 Oct. Quin is the accd.

XXM:- Accd was driver of 3 ton lorry. He had been in F Ech. When I moved A Ech it caught up to F Ech. He had been driver since we went in action. Previously was amb driver. He did not ask for change. He did speak to me re changed - he did not want to drive F Ech kitchen truck.

Re-exam:- nil

Court:- Regt was on op duty just before MARRECHIA. 107 Bty was in action. Had been in action against enemy 4 to 6 wks at the time. Not a rest or reserve area. Had been in reserve prior to this - this was second position after coming out of reserve.

R.P. 83 (B) complied with.

2nd Wit) Lt S.A. Kerr, 8 Fd Regt RCA duly sworn, states:-
Prosn)

Am RSO of 8 Fd Regt. I produce cert of surrender (Exh A) referring to accd (pointing).

No Questions R.P. 83 (B) complied with.

II

Prosn closed

1st Wit) The accused, duly sworn, states:-
Def)

Was amn driver in LIRI valley. Before coming to GOTHIC line was changed to F Ech kitchen driver. Spoke to Sgt Maj & Capt Woodcroft & asked to be changed. Wanted change because had never been under shellfire & nervous about guns going off. Drove kitchen veh - 1st one was on 4 dys when it was lost by shell fire, I was 30 x away at time - veh then replaced. Received letter from wife saying my bro killed, then received clipping that only wounded also received letter that my wifes father died. When ret'd to regt had letter from wife that had to call my daughter by another name.

XXM:- Did go to guns when ~~duri~~ driving amn truck - Sgt i/c picked out rds for amn.

Re-exam:- nil

Court:- nil

R.P. 83 (B) complied with.

Def closed.

Prose in closing:-

Submit evidence proves AWL for period stated with intent to avoid service. Accd has outlined anxieties but submitted that nothing to disprove absence or to indicate that did not intend to avoid service in frwd area.

Def offr in closing:-

Have not tried to disprove absence. But at time left have shown that labouring under defect of reasoning thru worries that encapable of appreciating nature or quality of act. When came to senses surrendered. These letters from wife the accd

discovers that his daughter is not his daughter. Acsd not exam by MO on return:. no proof that not mentally upset during absence. Recent MO exams re only physical fitness.

J.A. sums up:-
Defines functions of court, credibility of witnesses, presumption of innocence, burden of proof, reasonable doubt, insanity, desertion & AWL, AA 56 & RP 44 (D)

1st Wit) Lt P. Morrison, 8 Cdn Fd Regt, duly sworn, states:-
Character)
Known acsd 2½ yrs & have been his Tp offr & many dealings on duty & otherwise. Always good soldier & reliable.

XXM:- nil

Court:- Have never heard any complaints from men re character & honesty.
R.P. 83 (B) complied with.

"WMWShaw Capt"

CERTIFICATE UNDER ARMY ACT SECTION (i) (j)

I, Lieut J. Neal. certify that No B88454 Rank Gunner
Name QUIN, N. Regt "F" Bty 8 Army Field Regt. R.C.A.
surrendered hi self to No 7690760 Rank L/C
Name RODEN, K.C. Detachment of 230 Provost Company,
at FOGGIA on the 2 day of October 1944, 2035 hrs, as a
deserter (or absentee without leave)

"J Neal" Lieut
Officer Commanding
Detachment. 230
Provost Company of which
L/Cpl Roden is a member.

Exh "A"
"WMWS"
(S A Kerr) Lt RCA

2nd Oct 1944

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B.88454	Gunner	Nelson QUIN	107 Fd Bty 8 Fd Regt (SP) RCA

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.—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 annexed to the proceedings.

† See para. 671, K.R., 1940.

*The numbers herein stated should correspond with the number of entries in the conduct sheets, great attention being given to the most recent entries as early entries, and to any recognised spiral acts of gallantry or distinguished conduct.

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

	* Within last 12 months.	*Since Enlistment.
For AWL ~~AA~~ Sec 15(1)	1 times	AWL 2 times
For AA Sec 9(a)	1 times	AA Sec 9(2) 1 times
For	times	times
For	times	times
For	times	times

[redacted]

or

[redacted]

2. The accused has not been previously convicted, [redacted]

3. The accused is not under sentence at the present time, [redacted]

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 42 days in military custody, making a total of 42 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service / attestation paper is 27

6. The date of his [redacted] attestation specified in his [redacted] attestation paper is 17 Jan 40

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

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

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

10. The accused is in possession of, or entitled to, no military decoration or military award (*or is in possession of, or entitled to (state any military decoration or reward)*). CVSM & Clasp

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

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

(72894) W.L.21708/1677 25,000 10/41 A.& E.F.Ltd. Gp.698
(72644) W.L.11227/481 " " "

"B"
"WHOS"

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.

No. B.88454 Rank Gnr Name Nelson QUIN 107 Fd Bty 5 Cdn Fd of Regt (SP)RCA Regiment (or as the case may be).

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

Description of court by which tried, or station of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charge 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
N/A	N/A	N/A	N/A	N/A

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

Signed this 14 day of Nov 44

"PWPeacock Lt"
(P W Peacock) Lieut RCA
A/Adjt 8 Fd Regt (SP) RCA

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

Date of Promotion.

In the rank of N/A ..... years, ...

In the rank of N/A ..... years, ...

In the rank of N/A ..... years, ...

(INSTRUCTIONS—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be obtained from such sources as are available and the paragraphs concerned amended accordingly.*)

No B88454 Name QUIN H. Sqn, Battery or Company 107th Fd Bty Corps RCA Date of enlistment 17 Jan 40 GC Badges Service or Proficiency Pay MFM 6 (AFB 122)

Date of last entry in Company Conduct Sheet 15 Jul 40 No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No 1 Signature OC 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
In the Field	26 Sep 41	Gnr	Nil	WOAS AWL in that he absented himself without leave from tp parade at 0500 hrs 26 Sep 41, until reporting at 0615 hrs, 26 Sep 41 (Sec 15(1) AA (Time absent 1 hr, 15 min)	BSM Gleson E J TSSM Durtin H G	7 days C.B.	27 Sep41	Major R M Jones OC 107 Fd Bty	"C" "NEWS"
In the Field	29 Oct 41	Gnr		WOAS Disobeying a lawful comd given by his superior officer, in that he, at HINFIELD, SUSSEX on 29 Oct 41 did not return his veh to the wagon lines, after being ordered to do so by Lt J C Morrison (Sec 9(a) AA)	Lt J C Morrison BSM Gleson L/Sgt McLeod D.M.	8 days F.P.	30 Oct 41	Major R M Jones OC 107 Bty	

(FTO)

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	30-5-43	Cnr		WGAS AWL in that he absented himself without leave from 2359 hrs 30 May 43 until 0805 hrs 31 May 43 (absent 8 hrs, 6 min) Sec 15(1) AA	BSM Herity J D	2 days CB	31 May 43	Maj F E Goulding	Forf 1 days pay FRAI 149(1)(a)

CERTIFIED TRUE COPY OF REGIMENTAL BOOKS IN MY CUSTODY.

"W C Taylor"
(W C Taylor) Capt RCA

5 V-65

Pte Quindon, J. M.

SCHEDULE.

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

Accused: D139287 Pte. Joseph Maurice Swindon C/C X-H List 13 C.B.R. Gn.

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

(Note: As to findings for lesser offences see AA 56, RP 44; [illegible] alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of h/c 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 46(A). Information should be found on MF B.335B or AF B.296.)

Time in confinement awaiting present trial—a total of 19 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B.335B or AF B.296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo 90 Days Detention

(Sgd) ..... 27 Oct 1945 (Sgd) H Carmichael 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(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 27(D) fn 6, 46(A), 51-56, 120, MML pp 739-761, 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 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:

Confirmed

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 3 Nov 45 (Sgd) [illegible] Brigadier,
COMMANDING TROOPS AREA,
Commanding FIRST CDN. ARMY
Confirming Officer.

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

Accused.	Date.	Signature of Offr.
D139287 Pte Swindon J.M.	7 NOV 45	H Carmichael Maj 13 C.B.R. Gn.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 150 24-65

FIELD GENERAL COURT-MARTIAL

Convened by Order of A.J. Flynn Lt. Col. Comd 2 Can Base Sub Unit dated 25 Oct 1945.

ACCUSED.

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

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D139287	Pte	Joseph Maurice	Swindon	C/C X-H List 13 C.B.R. Gn.

PROCEEDINGS REVIEWED

21 hours L.J. Brady Maj

REVIEWING OFFICER'S [illegible]

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 27 Oct 1945.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 38/68

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. IS NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. 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 A65, 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, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (1) attached thereto. (2) The Court is satisfied that it is properly convened and constituted, (3) accused is (are) amenable to military law, and each charge discloses an offence. (4)

(1. As to use of Summary of Evidence see RP 17 fn 4. 2. AA 46, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 10.00 hours trial commences.

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

(1. KR Can 537. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

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

(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, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, 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, viz:

President	Major	H Carmichael	X-H R.C.E. 13 C.B.R. Gn.
Member	Capt.	S.S. Eagle	C/C P.E. 13 C.B.R. Gn.
Member	Lt	D.R. Henderson	C/C P.E. 13 C.B.R. Gn.
Judge-Advocate			
Prosecutor	Lt.	C.A. Carr	13 C.B.R. Gn.
Defending Offr	Capt.	J.L. Clark	13 C.B.R. Gn.

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 instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 85 (3) and fn 2 were not followed. See [illegible] p 32.)

A8. The accused Pte Joseph Maurice Swindon before arraignment make(s) (no) (1) plea

(1. If a special plea is made for separate trial on one or more charges (RP 52(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or be one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the arguments made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in [illegible] to RoP cited. Insert in A8 name 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 (does 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 42; when several accused to be tried separately see RP 71(C), and use separate copies of CF A56 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 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 authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

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

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

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

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

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

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

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 80, 87(*C*), 92(*B*), *and of witnesses and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85; *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* 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 (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 3 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *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) changes(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~(2)
(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, try such charge(s) by use of paras 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 D8 inclusive of Record Form D on p 3 before proceeding with C2.(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 C2. If any plea is changed to Not Guilty, final sentence 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.

Pin here. Loose Sheets of Record.

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

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(2)
(1. *If "yes", see RP* 29(*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 Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... 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 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 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 45(*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).(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. 2. (7)(*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(2) (*b*). *RP* 45, 120(*A*). 2. *AA* 54(7). *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) No.

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(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB* 255 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Con* 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. No (2)
(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)
(1. *AA* 54(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 J.A., 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 cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 136, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 752-758. *As to sentences consigned 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(18), 68(1), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *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.

CHARGE SHEET

The accused D 139287 Pte Joseph Maurice GUINDON (X4) List CIC on strength of 13 Canadian Base Reinforcement Battalion, 2 C.B.R.Gp, a soldier of the Canadian Army Overseas is charged with

Army Act Sec 15(1) WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, at 0830 hrs on the 2 Oct 45 illegally absented himself without leave until he surrendered himself at 13 C.B.R.Bn at 0830 hrs 7 Oct 45. (Total time absent 5 days)

Signed inthe Field
17 Oct 45

M. A. Frank
.....
(M.A. FRANK) Major
T/Commander 13 CBR Bn
2 CBR Gp

To be tried by Field General Court Martial.

L. J. Flynn

46.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate 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, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D139287	Pte		Joseph Maurice	QUINDON	CIC HQ Lieut 12 CDN Gp

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 14 (date) 25 Oct 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.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J H CARMICHAEL	HQ RCE - 12 CDN Gp

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	R E TRAVIS	CIC HQ - 12 CDN Gp
Lt	D R RAINBURGH	CIC HQ - 12 CDN Gp

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	W D PERRY	CIC HQ - 12 CDN Gp

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in Holland.
(Country.)

L. J. Flynn Lt-Col
(Signed personally. RP 105(B) 2.) (Rank.)

Date 25 OCT 45

Commanding L J FLYNN) Lt-Col
A/Comd - 2 Cdn Base Rft Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

4/38A(CFAAS 126 (1st Issue) OF 4/7/43)
40/P & S/169T (4853)

HEADQUARTERS 13 CANADIAN BASE REINFORCEMENT BATTALION

2 C. B. R. Gp.

MEDICAL CERTIFICATE

I certify that I have this day examined [illegible]

[illegible] of 13 Cdn Base

Quinton, J.M. fit

Rft Bn., 2 C.B.R. Gp. and find him ~~unfit~~ to undergo trial by Court Martial.

[illegible]

M.O. 13 C.B.R. Bn.

26 October 1945

1

Plea of Mitigation
Pte Swindon

Pte Swindon has been in the army for one two and one half years, arriving in U/K. May 44 and coming to N.W.E. July 44 He served with the Rhodesians, until hostilities had ceased in May this year. Ten months is a good long time to be spent in a theatre of operations like it was in N. W. E. during those months.

When Swindon arrived at this Bn. he asked if it was possible to be put in a P.T. job. He was told that

they would try and find him a job but nothing ever came out of it they did not say yes or no but continually put them off.

Although pleading guilty to being A.W.L. for five days, the reason he did go A.W.L. was because he had asked his Pl. Sgt. for a 72 hr. pass and was refused. The reason he was refused a pass was because he had finished F.P. but a short time ago, and his Pl. Sgt. refused to give him a pass on these grounds. Why should he be refused a pass, he had stuck his sentence and at the time of asking for a pass he was a soldier of any other

caliber, he had served his
sentence, & by through it both
on his part.

In summing up, I
would like the Court to take
into consideration, that Gunidon
has already been under close
arrest for 19 days, and he was
H. W. L last 5 days. Pte H. F. M.
6, is not too bad, with only
one previous F. & D. & though
he has not a great deal of
points, he would like to get
back home in order to assist
his mother. He has no father,
and but one brother at home,
to assist in the family, and
this is continually on his mind.

Capt. Clark Capt.

2x 7 46

SUMMARY OF EVIDENCE

In the case of D 139287 Pte Joseph Maurice GUINDON, (X-4) List CIC on strength 13 Canadian Base Reinforcement Battalion, 2 C.B.R. Gp., a soldier of the Canadian Army Overseas

By direction of the Commanding Officef the Summary of Evidence is taken under oath.

First Witness Prosecution — H 45521 Sgt MORICE F.C., PE 1 Coy, 13 C.B.R.Bn having been duly sworn states as follows:

I am H 45521 Sgt MORICE F.C., PE 1 Coy, 13 CBR Bn. At 0830 hrs 2 Oct 45 I called the roll of 1 Platoon of which the accused, whom I now recognize, is a member. He did not answer his name. I checked the Coy lines but the accused could not be found. He did not answer his name on any roll call nor attend any parades from that time until 0830 hrs 7 Oct 45. At that time and date, the accused reported to me from AWL. I placed him under close arrest and had him escorted to the unit guard room.

The accused declines to cross examine the witness.

H 45521 F.C. Morice Sgt
H 45521 Sgt MORICE F.C.

The accused was cautioned as follows:
"Do you wish to make any statement or to give evidence upon 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 and reserves his defence.

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

In the Field
10 Oct 45

W.L. Liscombe Capt
(W.L. LISCOMBE) Capt.
Officer detailed to take the Summary of Evidence

2 R 3 96

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number D139287 *Rank* Pte *Name* GUINDON J.M. *Regiment (or as the case may be)*
13 Canadian Base Reinforcement Battalion, 2 C.B.R.Gp

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.—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 annexed to the proceedings.

† See para. 677, K.R., 1940.

* 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 to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness, the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment
For Sec 15 (1) AA	5 times	9 times
For Sec 24 (2) AA	times	1 times
For Sec 40 AA	1 times	4 times
For	times	times
For	times	times

~~Number and nature of gallantry or distinguished conduct~~ X

XX

~~There is no entry on the conduct sheet of the accused~~

2. ~~He accused has not been previously convicted~~ X

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 award in the previous case is under suspension~~

~~Nothing to the contrary~~

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

5. The present age of the accused according to his ~~Record of Service~~ attestation paper is 19 yrs 2 months

6. The date of his ~~enlistment~~ attestation specified in his ~~Record of Service~~ attestation paper is 6 Feb 43

7. ~~The Medal and the Medal Roll number of the accused are~~

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs 7 mons service.

9. ~~The accused is entitled to~~ ~~As to the proper date see the pay~~

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*). 1939-45 Star, France Germany Star, CVSM & Clas

11. ~~Colour and Intermediate Office~~ The accused belongs to ..... Unit or Establishment

of .....

12. ~~Previous to the above~~ The accused has/has not been in the habit of ~~drunkenness~~ ~~misconduct~~

~~and his character~~ ~~(or his character for sobriety and general conduct)~~ ~~is~~ ~~was~~ ~~exemplary~~

W1.6502/129 20M. 5/44. P. Ltd. Y10-1.

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.

No. D 139287 *Rank* Pte *Name* GUINDON J.E. of 13 C.B.R.Bn *Regiment (or as the case may be).*

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

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, 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
F.C.C.M.	Field 20 Jan 45	(1) AWL (23 days 3 hrs) (2) AWL (10 days 15 hrs)	Detn for a period of 6 Months	60 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 12th day of Oct 45

K V Davidson Capt.

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

Date of Promotion:

To the rank of ____ years ____

To the rank of ____ years ____

To the rank of ____ years ____

(INSTRUCTION.—In any matter as duly recorded in any of the above paragraphs, cancel by ruling through the entry, initial the ruling, and enter the correction above the ruling. Where the paragraph must be read as amended, re-write the paragraph in full. Where the paragraph must be read as amended, re-write the paragraph in full. Where the paragraph must be read as amended, re-write the paragraph in full.)

No D 139287 Name GUINDON J.M. | Sqn, Battery, or Company | Corps Inf (R) C.A. | Date of enlistment 6 Feb 43 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122)

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	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Farnham Que	Sheet No 1 destroyed on 6 Aug 43 completion of six months service after date of enlistment								
Sorel Que	8 Mar 43	Pte		AA Sec 15 AWL from 22 hrs 8-3-43 to 2105 hrs 17-3-43 (absent 8 days 23 hrs 5 mins)	Pte Hanel R Pte Verreault	14 days detn	18-3-43	Major Villette	Forf 9 days under FR
Farnham Que	1 Aug 43	Pte		Losing by neglect his equipment clothing and regimental necessaries for the amount of $9.47 AA Sec 24(2)	CMS Mathieu G	5 days sum forf	17-8-43	Col A.T. Howard	Pay the amount of charge $9.47
Farnham	23 Aug 43	Pte		AWL from 0100 hrs 23 Aug 43 until 1400 hrs 23 Aug 43 AA Sec 15(1) (Absent 13 hrs)	L/Cpl Nolan A	Adm	24 Aug 43	Capt J.C. Pontbriand	Auto Forf days pay under FR&I

(PTO)

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
Farnham	13Sep 43	Pte		Conduct to prejudice of Good Order of military Discipline held in open arrest AA Sec 40	Lt Dupras Sgt Hibert	3 days C.B.	13 Sep 43	Major C.E. Cousins	
Farnham Que	20Sep 43	Pte		Neglect to the prejudice of good order and Military Discipline held in open state arrest AA Sec 40	C&MS	3 days C.B.	20 Sep 43	Major C.E. Cousins	
Farnham	11 Oct 43	Pte		AWL from 0100 Hrs 11 Oct 43 to 1400 Hrs 11 Oct 43 Held in open arrest (Abs 13 Hrs AA Sec 15(1)	Pte Gingras Doc	5 days C.B.	12 Oct 43	Capt J.C. Forbriandpay	Autb Forf 1 day PR&I 149 (1) (A)
Farnham	25 Jan 44	Pte		Conduct to the prejudice of Good Order and Military Discipline AA Sec 40	Sgt Dupuis A	5 days C.B	25 Jan 44	Capt P Hebert	

No D 139287 Name GUINDON J.M. Sqn, Battery, or Company Corps Inf (R) C.A. Date of enlistment 6 Feb 43 GC Badges Service or Proficiency Pay

MFM 6 (AFB 122) 40/PAB/136 (3458)

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	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Farnham	11Feb 44	Pte		AWL from 2200 hrs 11 Feb 44 until 1000 hrs 14 Feb 44 Held in close arrest Absent 2 days 2 hrs 50 min AA Sec 15 (1)	Doc Evidence	7 days C.B	14Feb44	Capt J.N.G Hebert	Auto Forf 3 days pay QR&I 149(1)(A
Field	26-6 45	-		AWL from 1330 hrs 26 June 45 till 1515 hrs 26 June 45(1 hr 45 min) (a3)	Major Ray Gerrard	Reprimanded	27June45		

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	8 Nov 44	Pte		on the 20 Jan 45 tried by FGCM AA Sec 15 (1) WOAS AWL from 0900 hrs 8 Nov 44 till 1200 hrs 1 Dec 44 Absence 23 days 3 hrs		Certified true copy frm Regt'l Book in my custody			
Field	21 Dec 44	Pte		AA Sec 15(1) WOAS AWL from 0700 hrs 21 Dec 44 till 2200 hrs 31 Dec 44 Absence 10 days 15 hrs		Sgn'd H.J. Rutledge Capt Adjt			
			Findings	Guilty on both charges					
			Sentence	Detention for six (6) months					
			Confirmed	Find. Sentence conf by Comd 8CLB					
				Relessed Detn 26-5-45 60 days remission of sentence					

No D 139287 Name GUINDON J.M. Sqn, Battery, or Company Corps Inf (R) C.A. Date of enlistment 6 Feb 43 GC Badges Service or Proficiency Pay MFM 6 (AFB 122)

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	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with Sjmt	By whom awarded	Remarks
Field	21 Aug 45	Pte		Absent from quarters from 2330 hrs 16 Aug 45 to 2230 hrs 20 Aug 45 (absent 3 days 23 hrs) AASec 15(1)	E106706 Cpl Rioux L.T	4 days Aut Forfeit 7 days pay	22 Aug 45	Lt Col CFL Roy	
Field	6-8 45	Pte		1st charge Absent from quarter from 2359 hrs 25/8/45 to 2230hrs 27/8/45 Total Absence 1 day 22hr 29 mins AA Sec 15(1) 2nd Charge Improply dressed while on leave in Uk	Cpl Rioux L E106706 Cpl Beaudry D 15665 Documentary	28 days Fd Punishment and Summary Forf	6/8/45	Major Mousseau	

Released from L Cdn Detn & FP Bks on 23 Sep Sentence having expired Remission earned under "Rules of Detention Barracks and Military Prisons" 4 days

COMMANDANTS initials

Certified true copy of the original in my possession

(R.W. Swetnam) Capt Adjt

5 V - 32

Ste Genevieve, Mo.

SCHEDULE.

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

Accused: A-88088 Pte QUINLAN Harry James - 9 Con Repat Dep

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
2 1st AA Sec 8(1)	GUILTY	GUILTY	
3 2nd AA Sec 9(2)	GUILTY	GUILTY	
1 3rd AA s 10(3)	GUILTY	GUILTY	
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 153, and in lieu 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 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which NIL 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 forfeit all ordinary Pay for a period of Forty (40) days.

(Sgd) ..... Judge-Advocate, if any. 5 NOV 45 Date awarded. (Sgd) [illegible] 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(7), 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) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 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(C). 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 53, MML p 65. Quashing after promulgation: KR Con 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:
Finding and sentence confirmed

~~I direct that the accused be put ..... (1)~~
(1. As AA 54. Delete if not used.)

(Sgd) [illegible]
Date 6 Nov 45 Commanding [illegible] Confirming Officer.

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

Accused.	Date.	Signature of Offr.
A-88088 Pte Quinlan H.J.	9 Nov 45	

Promulgated in Pt II Order 96 d/Nov 45.

[illegible] Lt Col
Comd Offr.
"A" Wing 9 Con Repat Depot

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 1698 5 V-32

FIELD GENERAL COURT-MARTIAL

CPA86 (In lieu of AFA86) 4/388

RECEIVED 14 Nov 45 AJAG BRANCH S.W.A.

Convened by Order of Brig TJ Rutherford, CBE, MC Comd 9th Gp CRU dated 3 Nov 45

ACCUSED.

(Refer 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) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
A 88088	Pte	Harry James	QUINLAN	9 Con Repat Dep

PROCEEDINGS REVIEWED
14 Nov 1945
[illegible] Capt
REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 3 Nov 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 1. Cautions do NOT include all relevant fmns RQs. For guidance on procedure when a variation in this form arises, see fmns 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 A95, for seals and instrs as how to record witnesses, 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, 133.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (if 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.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1)
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ..... as interpreter? Ans .....
~~The Interpreter is sworn.~~(1) Do you object to ~~Lt-Col~~ [illegible] Pte RIMMER as shorthand writer? Ans NO SIR
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 60(B). If objection, see procedure AA 51, RP 25, 71, 78, 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.L. REDMAN VD	HQ CRU
Member	MAJOR	F.M. DANIEL	9 C. REPL DEP
Member	LIEUT.	A.S. CHAPMAN	9 C. REPL DEP
~~Judge-Advocate~~			
Prosecutor	LIEUT.	J.E. HART	9 C. REPL D
Defending Offr	LIEUT.	N.D. HOLMES	9 C. REPL D.

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

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), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or in one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addressors made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 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 ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.
(1. RP 26, 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 A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared that~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 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 M M L 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) (E); 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 89, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pros 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 N.C. - S.I.A.W. (5)
(*1. RP 37(B). 2. RP 37(D) fn 5. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.~~(1) The Court decides (not) to advise accused to ~~change his (their) plea(s) of Guilty to Not Guilty on~~ ..... charge(s). ~~The accused is~~ [are] so informed, ~~and he (they) change(s) his (their) plea(s) on~~ ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be cleared 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 17., 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 paras 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 C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate 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.(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 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 88(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. 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(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 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 54(2) (a), 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 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 N.A. - Five Convictions NOTE-AJ
(*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 B and Ex C respectively.(3)
(*1. MFB 235 or AFB 296. 2. MFM 6. 3. RP 46, 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 Nil. Only. NOTE-AJ (2)
(*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)
(*1. AA 54(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 cover all charges as all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-739. 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(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. 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.

C-H-A-R-G-E S-H-E-E-T

The accused, A-68228 Private Harry James QUINLAN, Canadian Infantry Corps, on the strength of No. 9 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas, is charged with:--

FIRST CHARGE
SEC 16 (2)
ARMY ACT

When on Active Service,, Resisting an escort whose duty it was to have him in charge,

in that he,

at London, on the 26th day of October 1945, when placed under arrest by A-117804 L/Cpl McNeil D.J., resisted the escort by violence.

SECOND CHARGE
SEC 8(1)
ARMY ACT

When on Active Service, Striking his Superior Officer, being in the execution of his Office,

in that he,

at London, on the 26th day of October 1945, kicked in the groin A-117804 L/Cpl McNeil D.J. of the Canadian Provost Corps, who was escorting him in custody.

THIRD CHARGE
SEC 9(a)
ARMY ACT

When on Active Service, disobeying a lawful command given by his superior officer,

in that he,

at London, on the 26th day of October 1945, did not take his proper place in a queue when ordered to do so by C-30669 L/Cpl Robinson H.J., Canadian Provost Corps.

J. Erskine Colonel
(J.A. Wilson) Commander
9 Cdn. Repat. Depot.

In the Field,

First day of November 1945.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

[illegible] Brig
Comd
"E" Sp CRU

In the Fd
3 NOV 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate 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(8).

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A 58220	Pte		Harry James	JINLAN	9 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 (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 3 Nov 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.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Lt Col	D L Redman, VD	Ex CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	To be detailed by CO 9 Cdn Repat Dep	9 Repat Dep
Lieut	To be detailed by CO 9 Cdn Repat Dep	9 Repat Dep

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 England (Country.)

Date 3 Nov 45

(Signature of Authority RP 105 fn 2.) (T J WETHERFORD) Brig (Rank.)

Commanding "D" Gp CRU

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CPA86 (In lieu of AFA3 AD/P & R/1627-4-45)

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

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have this morning examined

No. D.C. 8228 Pte. Runciman W. J.

of #9 Edn. Reft. Depot and in my opinion he

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

Station Petawawa Camp

Date 5 Nov 42

S.A. Sibley Capt
Medical Officer

TRIAL OF

A.6[illegible] Pte QUINLAN NJ --- 9 CDN REPAT DEPOT

EVIDENCE FOR THE DEFENCE

FIRST WITNESS

The accused, No.A.6[illegible] Pte Quinlan, NJ, 9 Cdn Repat Depot, sworn, states:-

On the 26 Oct 45, just shortly after the pubs opened at 1800 hrs I went into the pub and I met one of the fellows from the Continent and we drank until 2130 hrs. We drank or started to drink pints of bitters and changed over to light ales, I believe I had a little bit of whisky, some gin. I left there air and went down to the Stage Door Canteen. I remember that I couldn't get into the canteen and I tried to get in and was stopped by the doorman and he told me that I had to queue up. I asked him if I could speak to the provosts and asked them if I could go in for 5 minutes. They asked me for a pass, I gave them my name and the first thing I remember of the provosts attempted to throw me out, just outside on the walk I received a blow on the side of the ear from one of the provosts and me bot hit the ground and after that I don't remember hitting anybody or hitting. I eventually remember going into the cells. I woke up the next morning in the cells. I am 24 years of age and worked in a factory as a machine operator. I am unmarried with a category B-4 which I received from coming out of the lines in Nov 44. I had been B-1 before.

PLEA OF JURISDICTION
BY THE COURT

E-1
MY

5 Nov 45

PLEA FOR MITIGATION FOR A-682 28 Pte. Quinlan H.J.

Sir, Harry James Quinlin joined the Canadian Active Army on the 19 of Feb. 1942. He arrived in England in June 1944 and disembarked on the shores of France on the 18 of July of the same year. Nine days later he joined the Highland Light Infantry regiment of Canada at the front lines. He served with the Regiment until 20 Jan 45, a period of seven months of continuous action, at which time he finally broke under the strain and was sent to the hospital. On the 30 Jan 45 his medical category was changed to that of S 4. He was held at base unit as unfit for reinforceme nt until 6 Oct 45, at which time he wa s sent back to England to 9 Cdn. Repat Depot.

During Pte Quinlan's military service of three years and nine months his crime sheet was clean except for one crime. That crime wa s being A.W.L.for 13 days during the Christmas and New Year season of 1944. There are very few soldiers , that, having the same length of service, can boast of such a good record.

For his service in the Canadian Army Pte Quinlin recieved the 1939-45 Star and the France and Germany Star and an S4.categery.

Pte. Quinlin is single but at the same time he ha s his family troubles. His father,who is a carpenter works in a box factory, ha s a very considerable handicap in that he suffers from a double rupture. But despite that handicap he must keep working because Mrs. Quinlin (Pte. Quinlin's mother) has varicose veins and mus t have daily treatments which cost money. So it is only natural that this unforunate state of affairs at home has a delatoricus effect on their son who is so far away from home in the pursuit of his duty to his country.

On the night of the 26 Oct. 1945 Pte. Harry Quinlin entered the Poplar House Bar (a public house in London) where he spent approximately three hours from 1820 till 2130 hrs, during which time he had several drinks. At 2130 hrs.he left the bar and went to the Stage Door Canteen in order to see an old friend of his. As he only wanted to see his friend for about five minutes he reasoned that he would not have to "cue Up". The doorman stopped him, so Quinlin asked to speak to the provosts on duty. The two provosts did come and it was at this point that the unfortunate trouble arose. They attempted to remove him by force and he reacted in like manner. And it was out of the innocent desire to see a freind for a few moments that Pte. Harry James Quinlin came to the unfortunate position of being charged with three very serious crimes under military law.

It amy be noted here that there are some disrepiencies in the written statements of the witnesses. According to L/Cpl Mcneil's statement-- "L/Cpl. Robinson started towards the door, and the accused walked over to the doorman and grabbed the doorman". And also in reply to cross-exa mination--" I was standing right beside you----the other Cpl was going for the truck".In L/Cpl'Robinson's statement he xxyx states- "At the door I turned around and saw this soldier had hold of the door-man by the shoulders." And in the Statement by the doorman, Sgt. Barber "They made a move to take him from the building and when he was passing me he ma de a lunge at me." Pte. Quinlin only turned on the doorman after bodily force had been used, and the movement towards the doorman was in all likelyhood merely reflex action as the provosts were trying to force him out of the xxxxxx.building. From then on due to the effect of alcohol, worry concerning his parents, and his unstable mind(due to strain of modern warfare), Pte Quinlin was no longer responsible for

his actions. Physica l violence arouses the worst even in the most normal of human beings, so the effect must be even greater on one who in combination of alcohol, worry, xxxx possesses a medical rating of Stability 4. Surely all one has to do is to read the statements of the witnesse s to realize that Pte Harry Quinlin was not at that time a rational human being. How many of us would, in a normal state try to fight against such odds, as four presumably husky provosts? I am not censuring the Provost Corps when I say that at times they are a little rough , or perhaps undiplomatic might be a better word. But in dealing with a man in the condition of Pte Quinlin,more care must be xxxxx than with one who is entirely norma l.

I am not condoning Pte Quinlin in his use of alcohol when he realized himself that he is not asstable as he was before he went into action with the H.L.I. But he did consume alcohol for a period of three hours. The effect of alcohol varies greatly with different individuals as we all know. So consider what effect alcohol would have on a man with an S4. If he were stable under normal conditions,it would not have been so bad, but to start off with a case of battle nerves, add a xxxxx quantity of alcohol, and the result would be almost a complete lack of self control.

Pte. Harry James Quinlin has served longand honourably in the Canadia n Army. He ha s almost a perfect crime sheet. He has recieved the 39-45 Star,and the France and Germany Star. And through no fault of his own his mental stability has been greatly lowered because of the very great strain undergone in the face of direct fire of the enemy. There a re a great number of men who will never recover completely from the shock of comba t. Therefore it is our duty as Canadians to make allowance and help them as much as possible to become once again the normal citizens that they were before they answered the call of duty.

Pte. Harry Ja mes Quinlin pleads guilty to the three charges laid against him. He has committed crimes aginst the law governing all military personell. But I feel, and am certain that you feel the same, that he deserves the utmost leneincy in the punishment for his crimes. Military law must be upheld at all costs, but this is one case in which justice must surely be te mpered with mercy. This man has been mentally scarred while upholding the cause of freedom. Surely we will remember with gratitude his sacrifice and make allowances while he adjusts himself to a normal way of life. I maintain that Pte. Harry James Quihlin committed these crimes while temporarily under the influence of alcohol and in a condition of mental instablility, thus rendering himself not responsible for his actions , and as such deserves the utmost mercy of the court.

N.D. Holmes .....Lt
(N.D.HOLMES)

Defending officer for A-68228 Pte. Harry James Quinlin.

SUMMARY OF EVIDENCE

In the case of A-68228 Pte. Quinlan H.J., Canadian Infantry Corps, on the strength of No.9 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas.

By direction of the Commander, this Summary of Evidence is taken on oath:

FIRST WITNESS FOR THE PROSECUTION

A-117894 L/Cpl McNeil D.J., of the Canadian Provost Corps, having been duly sworn, states:

"I am A-117894 L/Cpl McNeil D.J., a member of No. 6 Company of the Canadian Provost Corps, stationed in London. On the evening of 26 Oct 45, about 2115 hrs, I was at the Stage Door Canteen with L/Cpl Robinson. The doorman asked us to help him to remove the accused whom I now recognize, because he had entered illegally instead of taking his rightful place in the queue. The accused was in the lobby when we approached him and told him he would have to take his proper place in the queue. He refused and was given an order in my presence by L/Cpl Robinson. He would not go out. L/Cpl Robinson started towards the door, and the accused walked over to the doorman and grabbed the doorman. L/Cpl Robinson took him out of the door and I helped him from the door. The accused began to fight and resist, kicking and biting. Two other Provosts came to our assistance. The four of us kept pushing and pulling until we get him to the truck. He stood in the truck facing the street and told us to come in and get him, saying "Come on in and get me you dirty Provosts." As I was getting into the truck the accused kicked me in the groin. We got in the truck and had to hold him down until we got to our headquarters in Store Street, as he was fighting all the way. We took him in and upstairs to a cell. When we asked him for his Service Book he said "Come on in and get it" and we had to open the door by force and go in after it.

The accused cross-examines this witness:

Q.1 What were you doing while L/Cpl Robinson went out for the truck?

A.1 I was standing right beside you. I told you that you were under close arrest and that the other Cpl was going for the truck. You turned towards a group of American soldiers and said "They are a bunch of chicken-shit bastards."

L/Cpl D.J. McNeil

A-117894 L/Cpl McNeil D.J.

SUMMARY OF EVIDENCE

In the case of A-68228 Pte Quinlan H.J., Canadian Infantry Corps, on the strength of No. 9 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas.

By direction of the Commander, this Summary of Evidence is taken on oath:

SECOND WITNESS FOR THE PROSECUTION

C-30669 L/Cpl Robinson H.J., of the Canadian Provost Corps, having been duly sworn, states:

"I am C-30669 L/Cpl Robinson H.J., a member of No. 6 Company of the Canadian Provost Corps, stationed in London. On the evening of 26 Oct 45 about 2115 hrs I was with L/Cpl McNeil at the Stage Door Canteen. I was coming up from downstairs when the doorman asked me if I would remove the accused, whom I now recognize, from the doorway and tell him to queue up with the rest of those waiting. I told him it would be better if he went outside and queued up as the doorman said, and then he could get in. The accused replied "In Canada we don't queue up; fuck them here, I'm going in." I asked him again to go outside and queue up. He refused and I gave him an order to do so. He would not go so I asked him for his pass which he gave me. I put it in my pocket, telling him he was under close arrest, and that I was going for the vehicle. At the door I turned around and saw this soldier had hold of the doorman by the shoulders. I ran for him and grabbed him by the shoulders. When we got outside on the curb he started to fight with me and we both fell on the curb. L/Cpl McNeil came over and grabbed him by the left hand. The accused began to kick, scream and bite. I saw him bite my partner on the shoulder. Half way to the truck L/Cpl Crozier and L/Cpl Dobson came to our assistance. We got the accused into the truck and he defied us to come in and get him, saying "Come on in you Provosts bastards". L/Cpl McNeil started to climb in and I saw the accused kick him in the groin. I got up on the left side of the truck and backed in so I would not get kicked. We all got in and held him down till we got to our Headquarters at Store Street, where we handed him over to our Cpl in charge of the detention block there. He still resisted while going upstairs. We got the soldier in the cell and someone asked us to get his paybook. He refused to give it to us, and propped his foot against the door and held it shut. L/Cpl McNeil started to open the door and I helped him. L/Cpl McNeil went in and got the paybook.

The accused declines to cross-examine this witness.

H Robinson

C-30669 L/Cpl Robinson H.J.

SUMMARY OF EVIDENCE

In the case of A-68228 Pte Quinlan H.J., Canadian Infantry Corps, on the strength of No. 9 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas.

By direction of the Commander, this Summary of Evidence is taken on oath:

THIRD WITNESS FOR THE PROSECUTION

C-124340 L/Cpl Crozier R.K., of the Canadian Provost Corps, having been duly sworn, states:
"I am C-124340 L/Cpl Crozier R.K., a member of No. 6 Company of the Canadian Provost Corps, stationed at London. On the evening of 26 Oct 45 about 2120 hrs I wasin the Stage Door Canteen with L/Cpl Dobson. An airforce serviceman informed us that the Canadian Provosts were having a struggle on Picadilly Street about half way between Stage Door Canteen and Picadilly Circus. We immediately rushed out of the Canteen and gave assistance to L/Cpl McNeil and L/Cpl Robinson. With a continual struggle from that point to the vehicle parked on Picadilly Circus we finally pushed and shoved the accused to the vehicle and put him in the back. He stood up in the back of the truck, facing the street, and said "Come in now you Provosts bastards and get me." L/Cpl McNeil climbed up on a small foot step on the back of the truck and received a kick from the accused approximately in the groin. L/Cpl Robinson climbed up on the rear of the truck, turned around and shoved the accused to the front of the truck. The other three Provists entered the back of the truck and by a continual struggle we held the accused down until arriving at our Store Street Headquarters. We removed the accused from the truck and he was taken to the detention rooms. L/Cpl Dobson and I returned to Picadilly Circus immediately.

The accused declines to cross-examine this witness.

C-124340 L/Cpl Crozier R.K.

FOURTH WITNESS FOR THE PROSECUTION

L-55251 L/Cpl Dobson W., of the Canadian Provost Corps, having been duly sworn, states:
"I am L-55251 L/Cpl Dobson W., a member of No. 6 Company of the Canadian Provost Corps, stationed in London. On the evening of 26 Oct 45 about 2120 hrs I was in the Stage Door Canteen with L/Cpl Crozier. Upon being informed by an airman in the R.A.F. that the Canadian Provosts were engaged in a struggle with a Canadian soldier, we rushed outside. I held the accused's hat which someone handed to me, and picked up his wallet from the street. I helped put him in the truck. When he got in I heard him say "Come on im, you provosts bastards." I got in and helped the other provosts to hold him down until we got to our Headquarters in Store Street, where he was turned over to the Cpl in charge of the detention block. I then returned to Picadilly Circus with L/Cpl Crozier.

The accused declines to cross-examine this witness.

L-55251 L/Cpl Dobson W.

SUMMARY OF EVIDENCE

In the case of A-68228 Pte Quinlan H.J., Canadian Infantry Corps, on the strength of No. 9 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas.

By direction of the Commander, this Summary of Evidence is taken on oath:

FIFTH WITNESS FOR THE PROSECUTION

No. 117, Sgt. Stanley Edward Barber, of 68 Kennington Park Road, S.E.11, having been duly sworn, states: "I am Sgt Stanley Edward Barber of 68 Kennington Park Road, SE11. On the evening of 26 Oct 45 I was doorman at the Stage Door Canteen, 201 Picadilly. About 2115 hrs I had orders that the Canteen was full and we were to admit no more. The ones that could not get in were queued up outside. The accused, whom I now recognize, walked in and I told him the house was full and we could accomodate no more. There was a bit of an argument and two Provost L/Cpls went up to the accused and were talking to him. They made a move to take him from the building and when he was passing me he made a lunge at me. One of your provosts grabbed him by the arm and they took him out.

The accused cross-examines this witness:

Q.2 Did I ask you if I could speak to the Provosts?
A.2 No, you did not.

Q.3. Does the queue go in one door only?
A.3 Yes, there are swing doors. They go in one door and out the other if both doors are open. Sometimes we only use one of them.

Q.4 Would there be anything to stop a person going in before he got to you?
A.4 No, we don't patrol outside.

Q.5 After I was talking to the Provosts did you see the Provosts waiting around the corridor?
A.5 They were waiting for some minutes, one or two of them, I'm not sure which. One of the Provosts asked me if it were all right for you to go in and I said no.

S. E. Barber

No. 117 Sgt Barber, S.E.

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 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 and reserves his defence.

I certify that the foregoing summary of evidence consisting of four 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.

W. de Hart Lt.
(W.E. de Hart) Offr detailed to take the Summary of Evidence.

In the Field
1st day of November 1945.

ARMY FORM B.296

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
A-68028	Pte	QUINLAN H.J.	9 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 47 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 annexed to the proceedings.
† See para. 627, K.R., 1940.
* 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 to any recognized special acts of gallantry or distinguished conduct.
INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment
For AA Sec 15(1)	1 times	1 times
For	times	times
For	times	times
For	times	times
For	times	times

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

or

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

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 nil days in civil custody, and 10 days in military custody, making a total of 10 days, of which nil days were spent in hospital.

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

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 19 Feb 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs 276 days

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

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

10. The accused is in possession of, or entitled to, no military decoration or military award (*or is in possession of or entitled to (state any military decoration or award)* 1939/45 STAR, FRANCE & GERMANY, DEFENCE MEDAL)

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

EX B

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.

No. A-68228 *Rank* Pte *Name* CUTLAM R.J. of 9 Cdn Repat Regiment (or as the case may be).

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

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, 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.

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 5th day of November 45

Major
(A/Adjutant)Records Offr
9 Cdn. Repat. Depot

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 entry in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except where the sum of a trial by field general court-martial for desertion may be inserted. Information may be collected from such sources as are available and the paragraph completed accordingly.)

No A-68220 Name QUINLAN, E.J. | Sqn. Battery or Company | Corps Cdn Inf Corps | Date of enlistment 19/2/42 | OC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet nil | No and date of last drunk nil | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Halifax	4-1-44	Pte		AA Sec 15(1) awl from 2200 hrs 4 Jan 44 to 0045 hrs 18 Jan 44. Absent 13 days 2 hrs 45 mins.	Documentary	10 days Pay PR&I 149(2)	20-1-44	C.O.	14 days Pay PR&I 149(1)a

CERTIFIED TRUE COPY CONSISTING OF ONE SHEET:
1 Nov 45.
R Kaswray Major
(J.E. Galloway) Records Offr
R Cdn. Regt. Depot.

J 4 C 15 Nov

(PTO)

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

Signed at [illegible] 6 Cdn Repat Depot
In the Field
this 1st day
of Nov 1945

W. J. Quinlan

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

~~I desire the services of~~ _____ ~~if he is available.~~

LIST OF EXHIBITS IN THE CASE
OF

W I L

LIST OF WITNESSES IN THE CASE
OF
A-88228 Pte Quinlan W.J.

First Witness: A-117894 L/Cpl McNeil D.J. - 6 Prov Coy
Second Witness: C-30869 L/Cpl Robinson HJ - 6 Prov Coy
Third Witness: C-124340 L/Cpl Crozier R.K. - 6 Prov Coy
Fourth Witness: L-55251 L/Cpl Dobson W. - 6 Prov Coy
Fifth Witness: No 117 Sgt Barber S.E. - 68 Kensington Pk Rd. S.E. 11

TTT-212

Pte. Quinn, A.R.

SCHEDULE.

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

Accused :

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A. SEC. 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 lieu 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 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 36 days, of which Nil. 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 serve 28 days detention in addition to time spent in custody. ~~Forfeiture of a total of~~ 64 days pay. WOB.

(Sgd) N/C Judge-Advocate, if any. 26 JUN 44 Date awarded. (Sgd) Capt Buchanan Mayor 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 ..... (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 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 fn 1.)

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

I deny the sentence and that it shall be as follows, to suffer field punishment No 1 for 28 days and to forfeit all ordinary pay for a period of 28 days and confirm the findings and sentence as varied.

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

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

(Sgd) [illegible] Lt. Col.

Date 3 July 44 Commanding A/Cmd 2 Can Inf Bde. Confirming Officer.

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

Accused. Date. Signature of Offr.

H-16989 Pte Arthur Roblan QUINN 5 July 44 [illegible] Capt.

Adjutant, P.P.C.L.I.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

TTT-212

RECORDED AT CMHQ IN AB CPAPR (To take place of AFA21) 41/P.S. 8/1608 (39041)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig. T.G. Gibson Comd 2 C.I.B. dated 29 Jun 44

(5.24)

ACCUSED.

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

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-16989	Pte	Arthur Roblan	QUINN	P.P.C.L.I.

PRO-SCHGR REVIEWED 16 August [illegible] JAG

(H1)

RECEIVED 5 AUG 1944

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy by REVIEWING OFFICER, JAG BRANCH, C.M.H.Q. on (date(s)) 26 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 INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. 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 hereof. See back of Convening Order, CF A95, 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, 102, 119, 132.)

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

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

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

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

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

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

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

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

(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, 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.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	MAJOR	W.H. BUCHANAN	SEAFORTH Can
Member	CAPT	J.R. WASNIEWSKI	L.O.R.
Member	LIEUT	J.J. LACROIX	L.O.R.
Judge-Advocate			
Prosecutor	LIEUT	A.E. DAMBRUST	P.P.C.L.I.
Defending Offr	LIEUT	J.R. KLEINSGEN	P.P.C.L.I.

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 Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused H16989 Pte QUINN A.R. before arraignment makes(s) (no) objection(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in 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 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 fns to RsP cited. Insert in A8 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 (dos) 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 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening 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 [redacted] *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 M M L p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) 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 (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) 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 ....., 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 paras 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 C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

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 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 80(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(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 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *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, statements, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part 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) (6), RP 45, 120(A).* 2. *AA 54(7), 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 ..... 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 F and Ex G respectively.(3)
(1. *MFR 255 or AFB 296.* 2. *MFM 6.* 3. *RP 46, 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. Plea of Mitigation (2)
(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)
(1. *AA 54(5), 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 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, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of (C.) vening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, H16989 Private Arthur Roland QUINN, Princess Patricia's Canadian Light Infantry, a soldier of the Canadian Army Active Force, CMF; is charged with:-

1st Charge
AA Sec 15 (1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 1830 hrs 21 May 44, until 0900 hrs 28 May 44, (absent 14 hrs 30 mins).

(C.B. WARE) Lt Col
CO, PPCLI

In the Field
21 Jun 44

To be tried by F G C M

(H.P. Bell Irving) Lt-Col
T/Comd 2 Cdn Inf Bde

24 June 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/FMS/1697 (1663)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate 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, fns, KR Can 306, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H16989	Pte		Arthur Roland	QUINN	PPCLI

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 (~~xxx~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 24 June 44 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; (~~xxxx

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) para 557)

I Certify that I have this morning examined No H16989

Pte QUINN A.R. of P PLI an in my opinion

he is fit/~~unfit~~ to undergo trial by Court Martial.

Station In the Fd

Date 26 Jun 44

Medical Officer

L & C.
Hosts

G.D. Hq.

Plea for mitigation of Sentence
in the case of #16 989 Pfc. Quinn R.A.

Sir, the following is recommended by the
court in mitigating sentence for the
accused, Pfc. Quinn realizes his mistake
and is willing to accept the consequences
However at the time of his going absent
he was under a severe mental strain as
was shown in the summary of evidence. I
would like to present a psychiatrist
report pertaining to the accused Pfc Quinn.
I also wish to point out that the accused
has been a good soldier throughout
the Sicilian and Italian Campaigns. He had
been wounded Dec. 15. 1943.

Summary of Evidence in the case of
H16989 ~~[redacted]~~ Pte. Quinn A. R., P.P.C.L.I.

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

First Witness for Prosecution

H16375 Lance Corporal Wurch, B. J. "C" Company, P.P.C.L.I., having been duly sworne, states:-

At approximately 1700 hrs on the 21 May 44 H35423 Sgt. Armishaw, who was then acting as C.S.M. reported to me, the Coy Sgt. that the accused, whom I now recognize, was absent from his platoon area and also that the accused had reported sick in the afternoon to the R.A.P. The battalion had been ordered forward to a forward position, and although the move had been cancelled, we were busy and the fact of the accused absence was not brought to me earlier. However, I phoned the R.A.P. at about 1710 hrs to H17021 enquire about the accused. Pte. Bunting, C.E., the Casualty Clerk at the R.A.P. answered the phone and told me that he would enquire of the M.O. Pte. Bunting phoned back about 1725 hrs and said that the accused had been given a thorough examination by the M.O. and that the M.O. had sent him back to the Company for duty. I phoned the Bn. Orderly Rm. and reported the absence of the accused at 1730 hrs. 21 May 44.

The accused declines to cross-examine the witness.

D. J. Walsh Lieut

Plea for mitigation of Sentence
in the case of #16987 PC Quinn P.C.

Pray the following be considered by the court in mitigation of sentence for the accused. PC Quinn realizes his mistake and is willing to accept the consequences however at the time of his going absent he was under a severe mental strain as was shown in the summary of evidence presented for the court & respectfully request returning to the accused PC Quinn. I also wish to point out that the accused has been a good soldier throughout the Sicilian and Italian Campaigns. He had been wounded Dec 15-1944.

P. O. Quinn would not have gone about but for the many troubles that were bothering him.

J. A. Reingardt.

June 26- 1908

S.S.R. Summary of Evidence in the case of
H16989 ~~H16977~~ Pte. Quinn A. R., P.P.C.L.I.

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

First Witness for Prosecution

H16375 Lance Corporal Walsh, D. J. "C" Company, P.P.C.L.I., having been duly sworn, states:-

At approximately 1700 hrs. on the 21 May 44 R.S.M. Richardson, who was then acting as R.S.M., reported to me, the Coy. Clerk, that the accused, whom I knew recognize, was absent from his platoon area and also that the accused had reported sick in the afternoon to the R.A.P. The battalion had been ordered forward to a forward position, and though the move had been cancelled, we were busy and the fact of the accused absence was not brought to me earlier. However, I phoned the R.A.P. at about 1810 hrs. to enquire about the accused, Pte. Bunting, R.C., the Company clerk at the R.A.P. answered the phone and told me that he would enquire of the M.O. Pte. Bunting phoned back about 1820 hrs. and said that the accused had been given a thorough examination by the M.O. and that the M.O. had sent him back to the Company for duty. I phoned the Bn. Orderly Room and reported the absence of the accused at 1830 hrs. 21 May 44.

The accused declines to cross-examine the witness.

D. J. Walsh Lcpl

Second Witness for Prosecution

R.S.M. C.A. Brewery, Gro. 14 Can. Gen. Hospital, R. C.A.M.C.

I certify that in my opinion the attendance of this witness is owing to exigencies of the service, not readily procurable, and a written statement of his evidence signed by him, has been read to the accused and is attached as Exhibit "A".

A. G. Pearkes Lt.-Col.
Signature of Accused

The accused calls witnesses for the defence.

Witness for Defence

H17060 Lance Corporal Ayers, R.M. Bn. R.C., R.P.C. L.D., having been duly sworn, states:—

On the evening of 11 May 44 at about 1730 hrs. I saw the accused, whom I now recognized, in front of Bn. Orderly Rm. I noticed that something seemed radically wrong with the accused; so I asked him what was wrong. The accused said that he was "beat" as a result of his experience that morning in which he was near to some enemy shelling in which some men of his own Platoon were killed and wounded. He also told me about just having been to the R.A.P. for an inspection, that the M.O. had pronounced him all right and sent him back to his coy. for duty.

H. H. Ayers L/Cpl

First Witness for Reference. Continued.

that N.B.
Just after, the accused walked away. I remarked to P 22339 Sgt. Mac Donald, M.E. that "that chap's in pretty bad shape." Sgt. Mac Donald replied "yes, he seems to be."

The accused declines to cross-examine this witness.

P.M. Ayres Lt.

Second Witness for Reference

P 22339 Sgt Mc Donald, M.E. Bn. H.Q., R.C.A.F., having been duly sworn, states: -

At about 1730 hrs on 21 May 44 I noticed the accused, whom I now recognize, in front of the Bn Orderly Rm. The accused in my opinion, seemed to be in a poor physical condition. He seemed to be very nervous. Lt Col. Ayres, P.M. remarked to me that the accused was "beat" and I said I thought so too.

The accused declines to cross-examine the witness.

R.G. Mc Donald Sgt.

"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. (R.P. 4 (E).

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

I certify that the foregoing Summary of Evidence consisting of four 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.

N. E. Nordquist, Lt.
Officer taking Summary

In the Field
20 June 44

Exhibit "A"

NO. 14 CANADIAN GENERAL HOSPITAL, R.C.A.M.C., C.A., C.M.F.

23 May 44

H 16989 Pte. QUINN, A.R.
P.F.C.L.I.

STATEMENT OF EVIDENCE

The a/m reported to Major A.E. Moll at about 0900 hrs 22 May 44. Apparantly he is A.W.L. to his unit.

He was a patient in this hospital from 29 Feb 44 to 8 Mar 44.

I ordered this soldier placed in the guard room at 1230 hrs 22 May 44 and advised the Canadian Provost Corps at Avellino.

(E.A. Drewery) R.S.M.

COPY

Cdn Neuropsychiatric Base,
att 14 Cdn Gen Hosp. RCAMC

AAD # 601

NEUROPSHCHIATRIC REPORT

QUINN R PTE H-16989 PPCLI

AGE 21 Cat S Enlist 6 March 40- England Aug 40 - Med July 43.

COMPLAINTS (1) Stomach trouble (2) Nervousness.

PAST HISTORY V.D.G. 1940.

Family History: Mother and sister very nervous.

Personal History: Born Manitoba. Youngest in family. Shy & timid as a child. Nightmares and afraid of the dark. School: Finished grade 10 at age of 17, could not afford further education. Home: Not particularly happy. Father drunkard and a "hell-raiser." Work: First job in grocery store. Left in 1½ yrs for better job with hydro company, where he stayed until enlistment. Marital: Unmarried, but has normal hetero-sexual interests. Social: Good mixer. Enjoys sports and other common amusements. Army: Claims patriotic reasons for enlistment. Joined up with present unit. Got along well with all training. Completed all route marches. Is class 1 rifle shot. Was Brigade runner for 14 months and batman-clerk for 8 months. Remainder of time was general duties in rifle company. Never in trouble with officers or other ranks. No crime. Went into action, and last of July 43, and completed the Sicilian campaign and went on to Italy. Evacuated 18 Dec 43 with wound rt forearm.

H.P.I: Always nervous, and during excitement he would tremble, heart would pound and became confused. Startled badly by sudden noises. Somewhat afraid of the dark, nervous of heights. All through his battle experiences he was very nervous & shaky, but at no time was he unable to perform hus duties. States that his chum was very steady and he stuck close to him all the time, but the day before patient was wounded he saw his chum killed by sniper's bullet.
States than on 14 Feb 44 while in North Africa (and was getting ready to come to Italy,) he commenced to vomit about 5 minutes after each meal. No nausea and appetite stayed good. Symptom has persisted. If he eats a very light meal he is not so liable to vomit. Admits he is quite perturbed about returning to front line.

Functional enquiry and habits. Bowels regular. Frequent frontal & occipital headaches. Slight dry cough 1 week. No urinary symptoms. Smokes 2-25 cigarettes per day. Alcohol in moderation.
Examination: Nutrition & and development good. Not acutely ill. Is restless and looks quite unhappy. Average intelligence and well-oriented. No speech defect. Answers questions adequately. Slight tremor of outstretched hands which are cold, clammy. Deep reflexes exaggerated. Otherwise general physical & neurological examinations are essentially negative.
Diagnosis: Psychoneurosis. Anxiety State. Chronic, Mild.

Conclusion: Family history of nervousness, patient has been relatively unstable during entire life. Consider present symptoms entirely of psychogenic origin. Feel that there would not be much use sending him to front line duties again. Should have a medical reboard.

signed J.A.Muir (Major)

6 Mar 44: Man is nervous but has compensated it successfully in action so far, (evacuated as a surgical case). has a reasonably stable civilian and army record. Given explanation & re-assurance, which he comprehends, and should be returned to duty.

C.E.G.Gould (Major)

22 May 44: This man appeared this morning asking to see Major Gould or Major Muir. Seen by me at 1130 hrs. Stated he left his unit last night around 1900 hrs, hitch-hiked to this hospital. States he couldn't stand up to the shellfire. That he paraded to the M.O. on three occasions and was given some pills. States he tried very hard to stand up to the shelling but that he couldn't take it any longer. "I tried and tried and now I am a disgrace to my unit. I took off my patches."
O.E: Depressed, tearful, tense. Non-Psychotic.

Placed in guard room, and provost at Avellino notified. Left the Hospital 23 May 44.

An inadequate psychopath, non-Psychotic, and as such is fit to stand trial and punishment. However, after completion of sentence he should be referred to Medical Board (Pulhems M-1, S-3) as unsuitable for full combatant duties.

"A.E. Moll " Major.

CERTIFIED TRUE COPY.

M. Cohen Major,

Registrar, 14 Cdn. Gen. Hosp. RCAMC.,

25 Jun 44.

M.F.H. 555
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H16969	Pte	QUINN, A.R.	PICLI

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

	Within last 12 months	Since enlistment or appointment
For AA Sec 15(1)	one times	two times
For AA Sec 40	Nil times	two times
For	times	times
For	times	times

~~Number of occasions of drunkenness (distinguished where~~
~~so~~
~~The above 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 awards of summary awards under~~ ~~Air Force Act~~ ~~Section~~ of the Army Act and dispensations with trial since ~~the date of the last entry~~ recorded in this statement.

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

or,

~~The accused at the present time is under sentence for~~ ~~imprisonment~~ ~~imposed~~ on the ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 36 days in military custody, making a total of 36 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~last~~ attestation paper is 24 yrs 323 days

6. The date of his ~~last~~ attestation specified in his ~~present~~ attestation paper 7 Mar 40.

7. The service which the accused is allowed to reckon towards discharge is 4 yrs 113 days.

8. ~~The accused~~ is entitled to reckon ~~X X~~ service for the purpose of determining his pension, etc.)

9. The accused is in possession of ~~or entitled to~~ ~~military~~ ~~air force~~ ~~decoration or reward~~

~~possession of or entitled to~~. State any air force decoration or reward. CVSM & Clasp.
military

10. ~~If the accused is a non-effective officer~~ ~~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 [illegible] dated [illegible] rank in his corps dated [illegible]

12. [illegible]

[illegible] rank of [illegible]

[illegible] rank of [illegible]

[illegible] rank of [illegible]

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 H16989 Rank Pte Unit

Name QUINN A. R. of FPCII

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
	NIL			

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

Signed this 21st day of June 1944 (C.B. WARE) Lt Co
CO, FPCII

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

M.F.M. 6
(A.F. B.127)
40/P & /2130 (2966)

No. H16989 Name QUINN A.R. | Sqn., Battery, or Company "C" | Corps CIC | Date of enlistment 7-3-40 | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. (Sgd) S.A. Cebbett Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of or order direct	By whom awarded	Remarks
19 Mar 44 - Field	30 Apr 44	Pte	-	Previous sheet destroyed in accord. with AA Sec 15(1) WCAS. Absent 10 hrs, 15 mins.	CASF RC O's Sgt Grimshaw W.	308 after two years Service without a Regt'l entry 14 days C.B.	2 May 44	Lt Col C.B. Ware	Forf. 1days pay by KR&I 149 (1)(a).

Certified to be a true copy taken from the Regt'l books in my custody.

(D.H. Messer) Major
A/CO, PIOLI

(FTO)

XXX-105

Pte Quinn O.J.

SCHEDULE.

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

Accused: G 27039 Pte Edward John QUINN

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
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 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of 4(c) see RP 44 fn a.)

~~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 B353 or AF B296.)

Time in confinement awaiting present trial—a total of 11 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:

to undergo Sixty (6) months Detention

(Sgd) ~~Judge Advocate, if any.~~ Date awarded: 4 Aug 44 (Sgd) W Wilson Major 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 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) fn 6,46(A), 51-56, 120, MML pp 739-761, 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 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 fn 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 order.~~ (1) RW

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

Date 6 Aug 44 (Sgd) A A Lee Col Brig

Commanding COMMANDER 1 CDN BASE RFT GROUP

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

Accused.	Date.	Signature of Offr.
G 27039 Pte Quinn C J	8 Aug 44	Lt Bergman Capt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 XXX-105

RECEIVED 2 6 SEP 1944 WAR DIARY SECTION

FIELD GENERAL COURT-MARTIAL

CFAB6 (To item of AFA2) 40/P & D/1868 (6000) 4/38B

Convened by Order of Col A A Lee V Comd 1 CBRGp dated 3 Aug 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) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. ~~(b) Apptmt, A/Rk or A/Apptmt.~~	Full Christian Names.	Surname.	Unit.
G 27039	Pte	Edward John	Quinn	1 Edn Coy Hyd

PROCEEDINGS REVIEWED 28 Sep 44

REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 4 Aug 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 INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDS. 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 895, 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, 103, 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 ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 4. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1000 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 elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 562 ~~Delete, if not applicable.~~)

A5. President to accused: Do you ~~object~~ to ~~[illegible]~~ as interpreter? Ans ~~The Interpreter is sworn.~~(1) Do you object to ~~the shorthand writer is sworn.~~(1) 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 (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(3) 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	W G Goodard	1 Bn 1 CBRD
Member	Lieut	F D Sherwood	1 Edn Coy Hyd
Member	Lieut	W H Elliott	1 Edn Coy Hyd
~~Judge Advocate~~			
Prosecutor	Lieut	W B Langston	1 Edn Coy Hyd
Defending Offr	Lieut	G E Richardson	1 Edn Coy Hyd

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. Lists of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See 2(i) p 3.)

A8. The accused before arraignment makes(a) ~~[illegible]~~ plea

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 120, RP 37), 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 fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned ~~(severally)~~ 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 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 71(C), and use separate copies of CF 895 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. ~~The Court (is closed and) continues with Order of Procedure after Arraignment at top of p 2.~~ The proceedings are continued on Record Form 6

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening 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 instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(E), 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 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.(5)

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

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) 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 pleas 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 "C", 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 paras 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 C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate 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.(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 92 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 fns 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, 86(C). Note the further opportunity in para E1 of Record Form E. Record in Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(E).)

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

(1. RP 43, 117(A). See Notes in Part 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) (6), RP 43, 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 6. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statements 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 "A" and Ex "B" respectively.(3)

(1. AFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 9 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 No.(2)

(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)

(1. AA 54(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 other 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 powers, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 41, 112. REE, RP 46-50, 69, 108, 119(A), KR Can 328, 330, 563-566. Overseas RO 309, 2325. 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(1B), (6B), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. 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.

CHARGE SHEET

The accused, G 24039 Private Clement John Quinn, 5 Canadian Casualty Clearing Station presently a convalescent at 1 Canadian Convalescent Depot, a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE
ARMY ACT
SEC 15(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Italy, absented himself without leave from 2230 hours 6 July 44 until apprehended by the Military Police at 1630 hours 24 July 44

In the Field
2 Aug 44.

Lieut-Colo
(F.F. NORTHUP)
Officer Commanding
1 Cdn Convalescent Depot.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
3 Aug 44

for (S. A. LEE) Colonel
A/Comd 1 Cdn Base Rft Gp
Cdn Army - CMF

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate 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, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G24039	Pte		Clement John	QUINN	1 Cdn Conv Depot

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) 6 Aug 66 endorsed ~~by me/(on~~ 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.)

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

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

PRESIDENT.

Major W G STEWART (120) 1 Bn 1 (Cdn)

(Rank.) (Must be named. RP 106.) (Unit.)

MEMBERS.

Capt or Lieut to be detailed by OC 1 Cdn Convalescent Depot

" " " " " " " " " " " "

(Rank.) (Named or detailed. RP 106.) (Unit.)

WAITING MEMBER.

Capt or Lieut to be detailed by OC 1 Cdn Convalescent Depot

(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 Italy (Country.)

Date 8 Aug 66

(Signed personally. RP 105 fn 2.)

(S. A. LEE)

Colonel (Rank.)

W Commanding 1 Cdn Base Rft Gp - CASF

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (CFAAO (in lieu of AFAO) 40/P & R/1007 (4651))

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

No. 1. Canadian Convalescent Depot. C.M.F.

I hereby certify that I have this morning examined 1/E. QUINN C-J

E.240.39 Chronic hemorrhoids - to be attended to at a later date

and find him fit to undergo trial by Court Martial.

Date. 4.8.44. Signed. Major

"B" A.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of G-24039 Private Clement John Quinn of the 5 Canadian Casualty Clearing Station, presently a patient of 1 Canadian Convalescent Depot, a soldier of the Canadian Army Overseas.

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

First Witness: For the Prosecution

K-52475 Sgt Smith, I. of the Seaforth Highlanders of Canada, presently a patient of 1 Canadian Convalescent Depot, a soldier of the Canadian Army Overseas having been duly sworn states :-

While acting as Company Orderly Sgt of "E" Company, "B" Division, 1 Canadian Convalescent Depot, I called the tattoo roll at 2230 hrs 6 July 44 and found Private Quinn, whom I now recognize, absent.

The accused declines to cross examine this witness.

Second and Third Witnesses For the Prosecution

6979567 L/Cpl Murphy and 5338428 L/Cpl Harman of the Salerno Rest Camp, owing to the exigencies of the service cannot be called to give evidence, therefore a written statement purporting to be signed by them is attached hereto and marked Exhibit "A".

The accused was asked, "Do you wish to make any statement or 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 and reserves his defence.

Taken down before me in the presence of the accused this 28th day of July 1944. I hereby certify that R.P. 4 (c)(d)(e)(f) and (s) have been complied with.

Lieut

W.B. Langston
Officer detailed to take Summary of Evidence.

"Appx "A"

EVIDENCE

Whilst on duty in the camp area at 1630 hrs 24-7-44 I stopped PTE. QUINN. C.J. G-2H 039. and asked for his pass which he failed to produce.

I placed him under close arrest.

L/Cpl Murphy 3979367
L/Cpl Harman 5338428

Prisoner
Cautioned & making no statement
Charge read over to prisoner
who made no reply.

[illegible] Capt

REMARKS

CHARGE

Army Form B 252
(see King's Regulations)

Regiment

Battery / Squadron / Troop or Company

CHARGE against No. G-24039 Rank PTE.

Name QUINN. C. J.

Place SALERNO REST CAMP Date of Offence 24-7-44

OFFENCE A. W. L FROM
UNTIL APPREHENDED BY CAMP
POLICE AT 1630 HRS 24-7-44

Names of Witnesses: T/Cpl Murphy 6977307.
T/Cpl Haman 5837428.

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

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

P.S.S. 121 30/300/12/44

"A"

ARMY FORM B. 2495.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be)
G-24039	Pte	Quirk C J	5 C C S, R C A M C

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

The conduct sheets mentioned should be produced in court with this statement but not annexed to the proceedings.

* See para. 671, K.R., 1940.

* The accused having elected to deal with his case in person in the manner laid down in the Manual should strike out the words "and to call witnesses against him or put forward any matter in defence or mitigation" in paragraph.

Instructions.—If the charge is not proved, give the entries in the conduct sheets to be stated alternatively and dated.

	* Within last 12 months.	*Since Enlistment.
For AA 15 (1)	Nil times	1 times.
For AA 19	Nil times	1 times.
For AA 40	4 times	4 times.
For AA 104	1 times	1 times.
For	times	times.

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

or

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

~~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.

2. The accused is not under sentence at the present time. ~~or The accused at the present time is under sentence of~~ ~~imprisonment~~ ~~penal servitude~~ ~~detention~~ ~~hard labour~~ ~~reprimand~~ ~~forfeiture of seniority~~ ~~forfeiture of service for promotion~~ ~~dismissal from the service~~ ~~cashiering~~ ~~dismissal with disgrace from His Majesty's service~~ ~~forfeiture of all previous service~~ ~~forfeiture of service for the purpose of increased pay~~ ~~forfeiture of service for the purpose of pension~~ ~~forfeiture of good conduct pay~~ ~~stoppages~~ ~~fine~~ ~~detention of good conduct pay~~ ~~suspension from rank~~ ~~reduction to the ranks~~ ~~reduction to the rank of~~ ~~to be kept in force~~ ~~to be suspended~~ ~~to be remitted~~ ~~to be commuted to~~ ~~to be remitted and commuted to~~ ~~to be suspended and commuted to~~ ~~to be remitted and suspended~~ ~~to be remitted, suspended and commuted to~~ ~~to be remitted and suspended and commuted to~~ ~~to be remitted and suspended and commuted to~~ ~~to be remitted and

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.

No. 6-24035 Rank Pte Name Green C L of 5 C C S Regiment (or as the case may be).

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

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, 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.

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 4th day of August 44

W L Bergman Capt

(If the accused has served as a non-commissioned officer continuously, without reduction, to the present date,)

Date of Promotion

To the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

(If neither clause—If any entry in any of the above paragraphs ought to stand from the regimental books the paragraph must be struck through, except that in the case of a Field by field general court-martial the information may be collected from such sources as are available and the paragraph recorded accordingly.)

No C-24039 Name UINN C.J.

Date of last entry in Company Conduct Sheet: Nil

Sqn, Battery, or Company:

No and date of last drunk: Nil

Corps: RCASC

Period not reckoning towards freedom from extra fine:

Date of enlistment: 31/Nil/42 OC Badges:

Sheet No 1 Signature OC Company, etc:

Service or Proficiency Pay:

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed 31 Jan 43. Last entry Nil No. of cases drunkenness Nil									
Ottawa	9-2-43	Pte		AA15(1) AWL from parade at 1445 hrs 8 Feb 43 until 1615 hrs 8 Feb 43 (3 hrs 30 mins)	Sgt Reny	3 days C.B.		Capt. GA Galbraith	
Ottawa	10-2-43	Pte	/	Charged with drunkenness	Sgt Reny	Admonished		Capt. GA Galbraith	
Field	21-11-43	Pte		FIRST CHARGE WOAS Sec40AA under influence of alcoholic stimulants	Cpl. Torrance	5 days F.P. and Forfs 5 days pay under FDR 149(1)(b)	23-11-43	Major J.D. Cheetley	
Field	16-2-44	Pte		FIRST CHARGE WOAS Sec40AA on Feb 43 Sgt Brown 15.2.44 become unfit for duty due to previous indulgence of alcoholic stimulants	L/Cpl Smith	28 days F.P. and forfs 28 days pay under FDR 149(1)(b)	16-2-44	Major J.D. Cheetley	
				SECOND CHARGE AA10(4) Breaking out L/Cpl Greenough					

(PTO)

Page number	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 9-3-44	Pte		Earned 4 days remission of sentence under Rules 120 and 121 for Military Detentions and Military Prisons	Signature:				

No. C-23039 Name QUINN C.F. Sqn, Battery, or Company — Corps — Date of enlistment 31Jul42 GC Badges — Service or Proficiency Pay — Page 3

Date of last entry in Company Conduct Sheet — No and date of last drunk — Passed not reckoning towards freedom from extra fine — Sheet No 2 — Signature OC Company, etc — Character

MFM 5 (AFB 122) 40/PAM/120 (24428)

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	10Apr44	Pte		AA40 Conduct to the prejudice of Pte Dempsey in that he, in the field at approx 1415hrs 10-4-44 became unfit for duty due to previous indulgence in alcoholic stimulants AA40	Sgt Nolan	Forfs 28days pay under FMI 149(2)	11-4-44	Major J.D. Cheatley	
Field	18-4-44	Pte		AA40 Conduct to the prejudice of Pte Quinn C.F. in that he was found unfit for duty due to previous indulgence in alcoholic stimulants	Cpl Darwin Sgt Aubrie	Forfs 28 daysPay FMI149(2) 14days C.B.	19-4-44	Maj LaFlonte Lt-Col	

Certified true copy
Sgt Bergman Capt

List of Witnesses for the Prosecution

K 52475	Sgt Smith J.	1 Cdn Conv Depot
6979367	L/Cpl Murphy	Salerno Rest Camp
5338428	L/Cpl Harmon	Salerno Rest Camp

List of Witnesses for the Defence

NIL

List of Exhibits

Exhibit "A" - Statement of 6979367 L/Cpl Murphy and 5338428 L/Cpl Harmon

UUU-63

Sgt. Quinn, HB

SCHEDULE.

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

Accused: P-10198 Sgt Gordon Bell QUINN 1 CERU

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A.40	NOT GUILTY	NOT 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 as 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 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial: a total of ~~days, of which~~ Nil 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:

Accused was Released.

(Sgd) ..... 18 Aug 44 ..... President (RP 45, 50.)
Judge-Advocate, if any. Date awarded.
(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) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-571. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding as 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. 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 fn 1.)

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

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

(Sgd) .....
Date ..... Commanding ..... Confirming Officer.

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

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 30 AUG 1944 DHQ BRANCH

RECORDED AT CMHQ IN AB 160. 24 24 74-63

FIELD GENERAL COURT-MARTIAL

CFAB6 (To Issue of AF A21) 40/P.A.S. (1944)

Convened by Order of Brigadier PR Shields Comd 1 Cn CRU dated 16 Aug 44

ACCUSED.

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

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
P-10198	Sgt	Gordon Bell	QUINN	1 CERU

PROCEEDINGS REVIEWED 30 Aug 44

[illegible] REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date) 18 Aug 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 INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 740 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding point number herein. See back of Convening Order, CF A95, 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, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(4)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

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

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(B), RP 80 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ Interpreter ! Ans ~~The Interpreter is sworn.~~(1) Do you object to 2211[illegible] Sgt Sinclair RAF. 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
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, 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.L.	REDMAN	HQ, CA.U.
Member	CAPT	W.F.	SWINTON	1 CASCAU.
Member	LT	A.C.	BROOKS	1 C.G.A.U.
~~Judge Advocate~~				
Prosecutor	LT.	D.	PARÉ	1 C.E.A.U.
Defending Offr	LT.	W.R.	NEWMAN	1 C.E.A.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 Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See 2d p 3.)

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 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 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 addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP 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 (does ~~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, 102. 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 A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, or different, 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 [redacted] *3.*

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

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

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

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) 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 ..... (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared 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 37(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(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 paras 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 C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate 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, SIR.(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~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) NIL - AT
(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 Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1 2 charge(s).(3) 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 1 2 charge(s), and that, accordingly, the trial will proceed on the former, but the ~~accused is (are) found Not Guilty on the latter charges~~.(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 To give evidence. Do you intend to call witnesses on your behalf ?
Ans YES SIR. Are they witnesses as to character only ? Ans NO - SIR.
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 695. 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(e).*)
NIL
ATT

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 findings(s), if any, of Not Guilty, and states to the accused that the findings(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) (6), 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 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 .....
(1. *If evidence not 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 ..... and Ex ..... respectively.(3)
(1. *AFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, 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 .....(2)
(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)
(1. *AA 54(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 J.A. if any.(2)
(1. *When several accused tried separately see RP 76(b). 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 48. As to sentences see AA 44, 130, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 562-566, Overseas RO 309, 2502, RP 48. As to sentences assigned for civil offences by the law of England see AA 41(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. 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.

CHARGE SHEET

The accused P 10198 Sgt QUINN, Gordon, Bell, Royal Canadian Engineers, No. I Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with:-

FIRST CHARGE A.A. SEC. 40 NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he

in the field on 5 Aug 44., failed to carry out his duties of Coy Orderly Sergeant, after having been detailed for such duty in "E" Coy No. I Canadian Engineer Reinforcement Unit Part I Order No. 192,193, 194, dated 3, 4 and 5 Aug 44.

IN THE FIELD
9 Aug 44.

(G.H. WHITE) Colonel,
Commanding Officer,
No. I Cdn Engr Rft Unit,
Canadian Army (Overseas)

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

16 Aug 44

(P.R. Shields) Brig
Comd "B" Gp
Cdn Rft Units

FIELD GENERAL COURT-MARTIAL

CFA 95 (In lieu of AFA 3)
40/PAS/1007 (1968)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate 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) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
P-10198	Sgt	Gordon Bell	QUINN	1 CERU

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) 15 Aug 44 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.)

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

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

PRESIDENT.

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

MEMBERS.

Captain	to be detailed by	1 CASCRU
Lieutenant (Rank.)	to be detailed by (Named or detailed. RP 106.)	1 CCRU (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 England (Country.)

(Signed personally. RP 105 fn 2.)

Date 16 Aug 44

Commanding
(P.R. Shields) Brig Convening Officer.
Cond "B" Gp CRU

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

MEDICAL OFFICER'S REPORT

I certify that No P10198 Sgt. Quinn GB
of 1 CCRU is in a fit state of health,
and fit to undergo Trial by Court martial.

M Strachan Capt.
Medical Officer

Station 1 CCRU

Date 18 Aug 44

M. F. B. 246

CASE OF

P.10198 Sjt QUINN C.B., 1 CERU

D-3 -PROSECUTION-

FIRST WITNESS

B.28412 Sjt MARSH, G.J., 1 CERU, having been duly sworn, states:

On 3 Aug 44 while acting as CSM of "E" Coy 1 CERU it was my duty to detail through Pt 1 Orders the accused to be Orderly Sjt for Sat 5 Aug 44. I again repeated in Pt 1 Orders the same detail on the dates of 4-5 August. On the 5 August I was called to the Orderly Room and I made inquiries for the Orderly Sjt, the accused.

Q. What were the hours for the tour of duty for the Orderly Sjt?
A. 0600 hrs each morning to 0600 hrs next morning. The Orderly Cpl said he had not seen him, so I sent him to Spider 5 to locate the accused. He returned 20 mins afterwards and said that Sjt Quinn could not be found. I then myself proceeded to the Mess to try and locate him but he could not be found. I carried on with the business I had in hand and at 1600 hrs I contacted Lt Kline who reported to me that he had not seen the Orderly Sjt, all through the day. I sent the Cpl the second time to locate him but he could not find him I saw no more of the accused until Mon morning at 0830 hrs.

Q. Did you continue on duty the whole of the 5th?
A. Yes, I carried on myself doing the duties of the Orderly Sjt for the remainder of the 5th August. I saw him on Sunday at a meal, and officialy I saw him on Mon at 0830 hrs. The accused belongs to "E" Coy. Whe he came to the Orderly Sjt I told him he was on a charge for failing to do his duties as Orderly Sjt and he just said "oh".

CROSS-EXAMINED

Q. What exactly were the duties of the accused?
A. He was attending school as a student on a survey course.

Q. Is it customary when anyone is attending a course to put them on company duties and is it made clear to them as soon as they come to the company?
A. Yes, there are orders to that effect. The come, are posted to the company, are taken on strength and it is automatic more or less that they will do regimental duties.

Q. Can you remember the date he joined your company?
A. Not the date, but I can remember a specific instance.

Q. Was he posted the same day as he came to your company?
A. Yes, Sir.

Q. Was he given much notice of his actual duties?
A. No, Sir.

Q. What is the function of E Coy?
A. To carry on admin and the majority of the personnel 90% of the men which men are either attending courses or men waiting for courses.

Q. Are these orders posted in any particular spot?
A. One in Spider 5 which are the living quarters of the personnel. They are posted in the Main Hall - also in the OCs room.

Q. In the Sjts' Mess?

A. No, Sir.

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

SECOND WITNESS

Lt. R.L. BIGG, 1 CERU, having been duly sworn, states:

I am the admin officer of "E" Coy 1 CERU and I present herewith in evidence:

1. A certified extract from Pt 1 Order of "E" Coy No. 192 dated 3 Aug.

   Pt 1 Order No. 192 dated 3 Aug 44 marked Exhibit 1.

2. Pt 1 Order of "E" Coy No. 193 dated 4 Aug.

   Pt 1 Order No. 193 dated 4 Aug 44 marked Exhibit 2.

3. Pt 1 Order No. 194 of "E" Coy dated 5 Aug.

   Pt 1 Order No. 194 dated 5 Aug 44 marked Exhibit 3.

Each of these orders contain an entry relating to the accused whom I now recognize, and I tender further in evidence:

1. A certified copy of Standing Orders of "E" Coy, setting forth the duties of Company Orderly Sjts.

   Certified copy of "E" Coy Standing Orders marked Exhibit 4.

Q. Are these true copies?
A. These are certified true copies of the originals, the original are in my possession.

Q. Are the dutes of the Orderly Sjt posted in view?
A. They are posted in the Orderly Sjts Duty Roster Book.

CROSS-EXAMINED

Q. When Sjt Quinn joined your Company was he told of his duties as Orderly Sjt while on course?
A. I couldn't say.

Q. Does anyone that comes to your Company - are they aware that they are subject to these duties?
A. It is understood that an NCO or Officer is subject to duty at any time.

Q. Any attempt made to get in contact with Sjt Quinn before 1400 hrs on Sat the 5th?
A. We we have men who are on course they carry on their course just the same on Sat morning and report in the afternoon. The Sjt-Maj warns them as to their duties, but I can't say what in this particular case.

Q. Was the accused attending classes on Sat morning the 5th?
A. He wasn't reported absent from classes.

Q. What date was the accused posted to this Company, "E" Company?
A. On 29 Jul 44, but I think he actually came to the Company on 28 Jul

Q. When did he start this course?
A. According to my records, on the 28th

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

THIRD WITNESS

B.26126 L/Cpl BERTRAM, RN, 1 CERU, having been duly sworn, states:

I was Orderly Cpl on the weekend of 5 Aug and 6 Aug 44. While on this duty Aug 5, Sat afternoon the 5th at 1430 hours the Sjt came, Sjt Marsh, to the Orderly Room and asked if I had seen the accused. I replied that I had not and he asked me to go and look for him in Spider 5. I done this but could not find him and returned to the Orderly Room and told the Sjt I couldn't find him. I looked in Spider 5 because that is where "E" Coy personnel are. Sjt Marsh carried on the remainder of the day.

Q. During your whole term of duty did you see Sjt Quinn at all?
A. No, Sir.

CROSS-EXAMINED

Q. At what time were you first aware that the accused was way from his duty?
A. At 12 o'clock on 6 Aug I did not see the accused there then. I saw on orders that it was Sjt Quinn who was to be Orderly Sjt for the day.

Q. Any attempt made to locate him?
A. Not at 12 o'clock, the first attempt was made at 1430 hrs.

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

FOURTH WITNESS

Lt D.R. KLINE, 1 CERU, having been duly sworn, states:

I was Orderly Officer of "E" Coy on 5 Aug 44. The accused whom I now recognize did not appear at any time during my tour of duty 5 Aug 44. Most of the time between lunch and the evening meal I was in the Orderly Room and as I had not seen the accused at the noon meal parade I asked 2 or 3 people around the Orderly Room if they had seen him around. They said they hadn't. I attended supper parade and he didn't appear. Somewhere around 2000 hrs I visited the hut in which the accused slept, and visited every room in that hut and he was nowhere to be found. I asked the hut orderly who was on duty in the large room where the Survey Pln slept, but I couldn't locate him.

CROSS-EXAMINED

Q. When was the accused first required to report to you?
A. Normally he would report to me on the noon meal parade.

Q. What would his duties be from 0600 hrs?
A. To go around with me to inspect the quarters and air raid shelters in the morning.

Q. Why was there no attempt made to locate him earlier in the day?
A. I forget what I was doing that morning.

Q. The noon meal parade?
A. I did not locate him then but I went back in the Orderly Room in the afternoon and I asked the Orderly Cpl if he had seen him and he said he had not seen him around at all. There was no occasion to need Sjt Quinn for any specific duty at the time other than parades.

Q. Could you not have got him at the Survey School?
A. I didn't think they were under instruction at the time in the afternoon.

Q. You knew he was on course?
A. Yes.

Q. As pln officer did you tell him he might be subject to regtl duty while on course?
A. Apparently I didn't, that comes from higher authority that personnel on course will be subjec to duty on weekends.

Q. Ever use them during the week?
A. Not to my knowledge.

Q. DO you remember when Sjt Quinn reported to the Company?
A. Before I came to the Company I believe.

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

THE PROSECUTION IS CLOSED

D-4 SUBMISSION BY THE DEFENDING OFFICER

I submit Sir that the Prosecution has failed to make a prima facie case and the only evidence of neglect is the neglect on the part of the Company in not informing the personnel of the Company when coming into the Company, of their duties.

PROSECUTOR'S REPLY TO THIS SUBMISSION

As Orderly Sjt, Sir, it is his duty to go and see what he has got to do, and the accused should have gone and seen what was his duty.

THE COURT IS CLOSED TO CONSIDER THE SUBMISSION

THE COURT IS REOPENED AND THE PRESIDENT ANNOUNCES THAT THE SUBMISSION BY THE DEFENDING OFFICER IS DISALLOWED.

D-5 -DEFENCE-

FIRST WITNESS

The accused, P.10198 Sjt QUINN G.B., 1 CGRU, having been duly sworn, states:

I was sent here on 28 Jul from "C" Coy 1 CGRU at LUDSHOTT. I arrived here about 4 o'clock in the afternoon and reporting to the Holding Wing and they took me around to "E" Coy and I was turned over to the CSM. He had me paraded before the OC who gave me a slip of paper to take down to the Survey Trg School to have filled out. During the conversation I had with him I was not informed as to any Company duties. The only information I recd from him was to report to the CSM - CSM Simpson, to arrange for quarters - sleeping accn. I arrange these sleeping quarters first and was billeted in the Sjts quarters. The first thing the following morning I reported to Capt Webber at the Survey School, this was ~~at~~ morning, 29 Jul. He took care of the necessary documents and put me to work immediately. The hours of lectures are from 7.30 in the morning until 11.45, and from 1.15 until 4.45. There are courses carried on at nights and we have certain courses through the Legion which we do on our own spare time, study courses. I was carrying on with my duties, working pretty hard at them, studied nights, and at any time I had occasion to go to my quarters it was after dark. For the first 5 days I was in this Camp I was quartered in the Sjts Quarters which are apart from Spider 5, consequently I had no occasion to go to Spider 5. The Coy orders I have learned since, are posted in one of the hallways of Spider 5. I had not been told that and I did not

of it during the first week I was on the course. About the 2 Aug I was billeted in one of the NCOs rooms in Spider 5. This room is just about as far away from the Order Board as it could possibly be, and I had no occasion to go near it. There are numerous doors leading outside before coming to it. Mon morning the 7 Aug was the first thing I knew of anything wrong and I was at class at the time. They called me up to the Orderly Room and told me I was on charge for not being Orderly Sjt on Sat past. On Sat I attended a course from 7.30 to 11 in the morning and from 11 to 12 was the Padre's hour which I attended. The balance of the day I spent in the area of the School working on trig problems, and I was working alone. I did not at any time avoid any Company duties knowingly.

CROSS-EXAMINED

Q. Did you know you were on duty 5 Aug 44?
A. No, I didn't, Sir.

Q. Did you know where the orders were posted?
A. No, Sir, I had not been informed - I thought they were all posted in the Sjts Mess. I looked for them in the Sjts Mess.

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

SECOND WITNESS

M.15956, Sjt ROGERS, J.W., 1 CERU, having been duly sworn, states:

I recognize the accused. While under my charge he was taking a refresher in topographical drafting and a refresher in mathematics.

Q. Has he got any ability?
A. I didn't know him very long, Sir. These courses involved quite a bit of work, and towards the end of the course quite a bit of night work. The accused started the course on the morning of the 5th and he was with me for a week previously on mathematics.

Q. Was there a runner sent up from the Orderly Room on this particular morning for the accused?
A. Not to my knowledge.

Q. What time was the accused broken off?
A. At 11.

Q. Did you see him during the balance of the day?
A. No.

Q. How long have you been an instructor on this course?
A. 7½ months, Sir.

Q. Are you acquainted with the practice of "E" Coy of using students on duties on weekends?
A. It isn't very often we have an NCO on course, Sir, but sometimes Lance Corporals who have been on course have been used for duty.

Q. In the past have there been occasions when you warned the men for duties?
A. Yes, towards the first of the year Survey was a separate institution and if there were any duties we would have to warn them ourselves for the duty.

NO CROSS-EXAMINATION

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

DEFENDING OFFICER ON THE FINDING

You have heard the evidence presented by the Prosecution and certain evidence presented by the Defence of this charge under Sec 40 which reads (Defending Officer reads Charge Sheet in full) The main evidence that the Prosecutor put forth is a Pt 1 Order 192, dated 3, 4, & 5 Aug in which the accused was detailed as Orderly Sjt. The Defence has brought forth evidence to show that the manner in which "E" Coy instructed any new personnel about their duties was quite slip shod to say the least. In this particular case the accused just arrived from "O" Company stationed at LUDSHOTT, was told to report to Holding Wing, then to "E" Coy and at "E" Coy was simply told to go over to the Survey School to start his course the following day. From there there were no instructions whatsoever given to him what his additional duties might be, and he was just left on his own. The accused has stated that to the best of his knowledge he carried out his duties faithfully, reported to the Survey School and proceeded on classes. These classes involved considerable work outside of class hours during the night and over the weekend, in fact during this period Sjt Quinn's time was fully occupied on these courses. The first thing he knew about his failure to carry out orders was when he was told to report at the Orderly Room on 7 Aug 44 and was placed on this particular charge. Now the Defence would like to point out that under AA 40 neglect is defined where it is wilfully carried out and if there has been no intention on the part of the accused the Court cannot find him guilty of any neglect, that is, neglect to avoid any duty. The Defence is convinced that the accused is not guilty of this charge and begs the Court to find him Not Guilty.

PROSECUTOR ON THE FINDING

(NOTE ATTACHED)

THE COURT IS CLOSED TO CONSIDER THE FINDING.

FINAL ADDRESS TO THE COURT, BY THE
PROSECUTOR, IN THE CASE OF P-10198,
SGT QUINN, GORDON-BELL, NO 1 C.B.R.U.

GENTLEMEN OF THE COURT:

You have heard the Evidences of the witnesses for the Prosecution. It is very evident that the accused, P-10198, Sgt Quinn, G.B., is guilty. The accused knows that he must read Orders every day and therefore he knew that he was Coy Orderly Sgt for "E" Coy, No 1 C.B.R.U., the 5th Aug.44. He was listed on Part 1 Orders No 192 dated 3 Aug.44, "E" Coy No 1 C.B.R.U., as Coy Orderly Sgt. The Orders was repeated in Coy Orders 193-194, dated 4-5 Aug.44. The accused, never report at the Orderly-Room to perform his duties the 5 Aug.44.-

I demand the Court to give a Verdict of Guilty.

D'Arè - Lt.
(D.FARE) Lt - C.B.R.U.
PROSECUTING OFFICER.

EXHIBIT "A"

No1 CANADIAN ENGINEER REINFORCEMENT UNIT

"E" COY PART 1 ORDERS
BY

Capt J.D. Bryce O.C.

Orders No 192
3 Aug 44

1. DUTIES

ORDERLY OFFICER : 3 Aug 44- Lt F.A. Haningt[illegible].
4 Aug 44- Lt J.A. Chivers
5 Ayg 44- Lt A.S Vance
6 Aug 44- Lt D.R. Kline

ORDERLY SERGEANT: 3 Aug44- H-20324n Sgt Hart. A
4 Aug44- D-10698 " McKenzie. L.W.
5 Aug44- D-10698 " Quinn.G.B.
6 Aug44- E-34909 " Simard.R.

(J.D. Bryce)Capt
O.C. "E" Coy
No 1 CERU

Certified true extract

(R.L. Bigg)Lt Officer having custody
Adjutant of company books.
"E" Coy 14 Aug.44

Ex 1

EXHIBIT "B"

No 1 Canadian Engineer Reinforcement Unit.
"E" COY PARK 1 ORDERS
BY
Orders No 195
CAPT J.D.BRYCE O.C. Date: 4 Aug.44

I. DUTIES

ORDERLY OFFICER: 4 Aug 44- Lt JA. CHITTERS
5 Aug 44- Lt A.S.Vance
6 Aug 44- Lt D.R.AYLNE

ORDERLY SERGEANT: 4 Aug 44- D-10698 Sgt McKenzie,T.W.
5 Aug 44- P-10196 Sgt Quinn,G.B.
6 Aug 44- E-84909 Sgt Simard,R.

(J.D.BRYCE)-Capt
O.C. "E" COY
No 1 C.E.R.U.

CERTIFIED TRUE EXTRACT.
(R.T. BIGG),Lt
Adjudant
"E" COY

Officer having custody
of company books.
14 Aug.44

Ex 2

EXHIBIT "C"

NO 3 CANADIAN ENGINEER REINFORCEMENT UNIT
"E" COY PART I ORDERS
BY

CAPT J.D.BRYCE O.C.

Orders No.194
Date: 5 AUG 44

I. DUTIES:

ORDERLY OFFICER: 5 Aug 44 LIEUT D.R. KIINS

ORDERLY SERGEANT: 5 Aug 44 F-10198 Sgt Quinn,G.E.

(J.D.BRYCE)Capt
O.C."E" COY
No3 C.E.R.U.

CERTIFIED TRUE EXTRACT.
(A.I. ENGE)Lt
Adjutant,
"E" COY.No 3 C.E.R.U.

Officer having custody
of company books.
14 Aug.44

EX 3

Exhibit "D"

DUTIES OF COY ORDERLY SJT

"E" COY 18 Jul 44

1. TOUR OF DUTY

The tour of duty for Coy Orderly Sjt will be from 0600 hrs daily, during which time he will remain in camp.

2. REPORT TO ORDERLY OFFICER

He will report to Coy Orderly Officer as soon as possible during his tour of duty.

3. MEALS

He will Fall in, and parade Coy personnel to Mess Hall at times as laid on by Unit Messing Officer.
He will report to Coy Orderly Officer as to conduct of parade.

4. LOCATION

He will leave word in Coy Orderly Room as to where he can be found during his tour of duty. The Orderly Officer to be especially notified.

5. ORDERLY ROOM

He will be responsible that the Coy Orderly Room is not left unattended during the hours of 1700 and 2300 hrs daily and from 1300 to 2300 hrs each Saturday and from 0800 to 2300 hrs each Sunday during his tour of duty.

6. GUARDS AND PICQUETS

He will be responsible that all Guards and Picquets supplied by Coy are mounted and thoroughly conversant with the duties and orders. Guards and Picquets will be detailed through Coy Part I Orders.

7. BLACKOUTS

He will be responsible that Blackouts in buildings occupied by Coy personnel are checked and correct.

8. TATTOO REPORTS

He will be responsible that Tattoo Reports are checked and handed into Unit Guard Room.

9. CHANGING OF DUTY

At no time will tours of duty be changed unless sanctioned by CSM.

10. HOLDING WING ORDERLY SJT

He will report to RSM Holding Wing on days "E" Coy supplies this detail

11. SIGNATURE

He will sign Orderly Sjts "Completion of Duty Roll" at Coy Orderly Room on completion of each tour of duty.

W J McAdam.

(W J McAdam) Captain
Officer Commanding
"E" Coy No 1 CERU

Certified true copy of Original "Duties of Coy Orderly Sergeant"

Ex 4
MM

J D Bryce

(J D Bryce) Capt
Officer Commanding
"E" Coy No 1 CERU

SUMMARY OF EVIDENCE

Summary of evidence in the case of No P-10198 Sgt Quinn,Gordon,Bell,No 1 CERU,on strength of No 1 Canadian Engineer Reinforcement Unit,a soldier of the Canadian Army overseas:-
By direction og the Commanding Officer,the summary of evidence is taken on oath.

FIRST WITNESS
For the prosecution

Lt D.R. Kline,no 1 CERU,on strenght of No 1 Canadian Engineer Reinforcement Unit,an officer of the Canadian Army,having been duly sworn states:-
I Lt D.R. Kline of No 1 CERU,was Orderly Officer of "E" Coy on Saturday 5 August 44.
P-10198 Sgt Quinn,Gordon,Bell whom I now recognize was listed on Company orders as Orderly Sgt for 5 Aug 44. Sgt Quinn did not report to me on the noon meal parade,did not appear during the afternoon around the Orderly room,on theevening meal parade. In the evening I went through spider 5,the hut assigned to "E" Coy,to look for Sgt Quinn. He was not thereand the hut orderly said he had not been around during the whole evening. Sgt Quinn did not report to me during my whole turn of duty,nor did I seen him around the Orderly room at any time during 5 Aug 44.

Cross-examined by the accused.

Question 1- Did you visit my room on Saturday 5 Aug 44?
Answer 1- I was around the whole spider 5 around 2000 hrs.
Question 2- Was my hat in my room?
Answer 2- I do not remember if it was or not.
Question 3- Did you visit the class room?
Answer 3- I did not visit the class-room.
Question 4- Was any runner sent during the day to locate me?
Answer 4- I myself did not order any runner to be sent to look for you.
Question 5- Are regular meals parades held on Saturday?
Answer 5- They do not have to parade by Coy,but my instructions were that the Coy Orderly Sgt in company with the orderly Officer must attend the meal parades,to see that there are no complaints regarding the meals..

(D.R. Kline)Lt.,RCE

SECOND WITNESS
For the prosecution

B-28412,Sgt March G.J. No 1 CERU,on strength of No 1 Canadian Engineer Reinforcement Unit,a soldier of the Canadian Army overseas having been duly sworn states as follows:-
I B-28412 Sgt March G.J. of No 1 CERU acting CSM "E" Coy No 1 CERU detailed P-10198 Sgt Quinn,Gordon Bell,whom I now recognize,through the medium of Coy part 1 orders,No 192,dated 3 Aug 44 to be Coy Orderly Sgt for Saturday 5 Aug 44. The order was repeated in Coy orders,193-194,dated 4-5-Aug 44 repectively.At approximitely 1430 hrs on Saturday 5 Aug 44,I was called to "E" Coy,No 1 CERU orderly room to investigate a missing pass.It was necessary for me to inquire the whereabouts of the Coy orderly

Sgt,and was informed by Coy orderly Cpl,L/Cpl Bertrom,that he had not seen him,meaning Sgt Quinn. I immediately dispatched the orderly Cpl,L/Cpl Bertrom to Sgt Quinns ~~leaving~~ quarters at spider 5, Guillemont Barracks,with instructions to Sgt Quinn to report to me at Coy orderly romm at once. L/Cpl Bertrom reported back to me,20 minutes later,that Sgt Quinn could not be found.I personally visited the Sgt's mess,Guillemont Barracks in an indeavour to locate Sgt Quinn,but he was not there.At approximitely 1600 hrs,after completion of my detail,repass investigation.I contacted Lt Kline,the orderly Officer,for "E" Coy No 1 CERU,whom reported to me he had not seen Sgt Quinn,or had Sgt Quinn attended noon parade.I instructed L/Cpl Bertrom to report to me ,should Sgt Quinn show up on duty.L/Cpl Bertrom on Sunday at 1000 hrs,on my inquiries stated he had not seen or heard anything of Sgt Quinn.During meal time of 1230 hrs to 1300 hrs in Sgt's mess,on Sumday the 6th Aug 44,I noticed Sgt Quinn at one of the meal tables,but upon finishing my meal,I tried to locate Sgt Quinn in the anti-room of Sgt's room,but did not seen him. On Monday morning 7th Aug 44,at 0730 hrs I sent word to Sgt Hart,platoon Sgt,Survey platoon of "E" Coy No 1 CERU that Sgt Quinn was to report to "E" Coy orderly room. Sgt Quinn reported to me at 0815 hrs and informed him that charge would be laid against him for failing to carry out his duties as orderly Sgt for Saturday 5 Aug 44.

Cross-examined by the accused

Question 1- Did you send the runner to the classroom where I attend class?
Answer 1- No

(G.J. March)Sgt
B-26412

THIRD WITNESS
For the prosecution

B-26126,L/Cpl Bertrom.R.N. No 1 CERU,on strength of No 1 Canadian Engineer Reinforcement Unit,a soldier of the Canadian Army overseas having been duly sworn states as follows:-
I B-26126,L/Cpl Bertrom,R.N., being orderly Cpl for the 5th Aug 44 Saturday afternoon,Sgt March inquired at 1430 hrs regarding the orderly Sgt,I told him that I had not seen Sgt Quinn,whom I now recognime and he told me to see Sgt March,when he comes in. Sgt March left the orderly room and returned at 1500 hrs and inquired again regarding the orderly Sgt. I told Sgt March that I had not seen the orderly Sgt. On Sunday 6 Aug 44,at approximitely 1000 hrs,Sgt March inquired at orderly room,if I had seen Sgt Quinn, which I reply no.

Cross-examined by the accused.

Question 1- Did Sgt March instruct you to visit my quarters?
Answer 1- He asked to look through the Spider,I went through spider 5 and did'nt find him.
Question 2- What time was that?
Answer 2- Approximitely between 1430 hrs to 1500 hrs.
Question 3- Was that the only time you looked for me
Answer 3- Yes.
Question 4- Did you any time look in class room where I attend the course?
Answer 4- No
Question 5- Were you instructed what cubicle I

slept in?
Answer 5- No.
Question 6- Do you know where Coy Orders are posted?
Answer 6- Yes
Question 7- Where are the Coy Orders posted?
Answer 7- Spider 5, last hall-way
Question 8- Were instructed to look for me on Sunday morning?
Answer 8- No

(Bertram R.N.)T/Cpl
B-26126

Fourth Witness
For the Prosecution

Lieut R.I.Bigg, a/adjt of "E"Coy, No 1-C.E.R.U., on strength of No 1-Canadian Engineer-Reinforcement Unit, an officer of the Canadian Army OS, having been duly sworn, states as follows:

I,Lieut R.I.Bigg,a/Adjt of "E"Coy, No1-C.E.R.U., certify that the following exhibits mark "A""B""C", are true extracts from Part 1 Orders 198-3-4,dated 3-4 and 5 Aug.44, "E"Coy No 1-C.E.R.U.

(R.I.BIGG)Lt-R.C.E.

The accused declines to cross examine the witness.
The accused was caution 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 what you may say, or any evidence you give, will be taken down in writing and may be given in evidence.

The accused declines to make a statemnt or to give evidence. The accused reserves his defense.

I certify that the foregoing of evidence, consisting of 5 pages, was taken down by me in the presence and hearing of the accused and that Rules of Procedures 4(c) (d) (e) and (f) have been compiled with.

(D.PARE) LT-R.C.E.,
Officer detailed to take
Summary of Evidence.

IN THE FIELD,
11 Aug.44

Certified true copy of original,
Summary of Evidence.

(D.PARE) Lt-R.C.E.

FOURTH WITNESS (RECALLED)
For the Prosecution.

Lieut R.T. Bigg, on being recalled, given the additional Evidence under oath:

I present a certified True Copy of the original "DUTIES OF COY ORDERLY SERGEANT". The original copy is available for perusal in the Orderly Room at "E" Coy, No 1-C.E.R.U.

(R.T.BIGG)LIEUT
A/ADJT "E" COY,
No 1-C.E.R.U.

Certified true copy of original.

D Lee-Smith

Summary of Evidence

Summary of Evidence in the case of no. P10198, Sgt Gunn, G. Bdr, No 1 C.E.R.U., on strength of No 1 - Canadian Engineer, Reinforcement Unit, a soldier of the Canadian Army overseas -

By Direction of the Commanding Officer, the Summary of Evidence was taken on oath.

First witness for the prosecution

Lt D.R.K Kline, No 1-C.E.R.U., on strength of No 1 Canadian Engineer, Reinforcement Unit, an officer of the Canadian Army, O/S, having been duly sworn, states as follows:

D, Lt D.R.K Kline of No 1-C.E.R.U., was orderly officer of 6 Coy, on Saturday 5 aug 44. no. P10198, Sgt Gunn, G Bdr, whom I subsequently identified, was listed on Company orders as Orderly Sgt for 5 aug 44. Sgt Gunn did not report to me on the noon meal parade, did not appear during the afternoon around the Orderly room, or the evening meal parade. - In the evening I went through spider 5, the hut assigned to "E" Company, to look for Sgt Gunn. He was not there, and the hut Orderly said he had not been around during the whole evening. Sgt Gunn did not report to me during my whole time of duty, nor report to me did I see him around the Orderly room at any time during 5 aug 44.-

6 ross - examined by the accused.

Question 1.- Did you visit my room on saturday 5 aug 44?

Answer 1- D was around the whole afternoon 5 around 2000 hrs

Question 2 - Was my hat in my room?

Answer 2 - D do not remember if it was or not.

Question 3 - Did you visit the class-room?

Answer 3 - D did not visit the class-room.

Question 4 - Was any runner sent during the day to locate me?

Answer 4 - D myself, did not order any runner to be sent to look for you.

Question 5 - Are regular meals paraded & held on saturday?
Answer 5 - The men do not have to parade by company but my instructions were that the orderly Sgt in company with the orderly officer must attend the meal parades, to see that order is maintained and that there are no complaints regarding the meals -

Signed D. R. Kline
LT. D.L. KLINE R.C.E.

~~The accused declined to make a statement~~ D.P.
~~The court adjourned the witness~~ D.J.

Second Witness for the prosecution

B 28412, Sgt march, G.J. - No 1 C.E.R.H., on strength of No 1 Canadian Engineer Reinforcement Unit, Aldergrove, an soldier of the Canadian Army, O.S having been duly sworn, states as follows:

D, B 28412. Sgt March, G.J. of No 1 C.E.R.H. acting C.S.M. "E" Coy, No 1 C.E.R.H. whom I know through the medium of Coy part I orders, No 142, dated 3 Aug 44, to be Coy orderly Sgt for saturday 5 Aug 44. The order was repeated in Coy orders, 143-144, dated 4-5 Aug 44. respectively. At approx 1430 hrs, on saturday 3 Aug 44, I was called to "E" Coy, No 66 C.E.D., Orderly-room, to investigate a missing pass. It was necessary for me to inquire the whereabouts of the Coy orderly Sgt, and was informed by Coy orderly Cpl, L/Cpl Bertrom, that he had not seen him, meaning Sgt Quinn, I immediately dispatched the Coy orderly Cpl, L/Cpl Bertrom to Sgt Quinn's ~~[illegible]~~ Quarters at spider 5, Guillemont Barracks, with instructions to Sgt Quinn to report to me at Coy orderly room at once. L/Cpl Bertrom reported back to me, 20 minutes later, that Sgt Quinn could not be found. I personally visited the Sgt Mess, Guillemont Barracks in an endeavour to locate Sgt Quinn, but he was not there. At approx 1600 hrs, after completion of my detail reports investigation, I contacted

Lieut K. Line, the orderly officer, for "E" Coy, No 1 C.E.R. No., who reported to me he had not seen Sgt Quinn, or had Sgt Quinn attended noon parade. I instructed L/Cpl Bertram to report to me, should Sgt Quinn show up on duty. L/Cpl Bertram on Sunday at 1000 hrs, on my inquiries stated he had not seen or heard anything of Sgt Quinn. During meal time of 1230 to 1300 hrs in Sgt mess, on sunday the 6 Aug 44, I noticed Sgt Quinn at one of the meal tables, but upon finishing my meal I tried to locate Sgt Quinn in the inter-room of Sgt's mess, but did not see him. On monday morning the 7 Aug 44, at 0730 hrs, I sent word to Sgt Hart, Platoon Sgt, serving Platoon, of "E" Coy, No 1 C.E.R.U., that Sgt Quinn was to report to "E" Coy, orderly room. Sgt Quinn reported to me at 0815 hrs and I informed him that charges would be laid against him for failing to carry out his duties as Orderly Sgt for saturday 5 Aug 44.

Cross-examined by the accused.

Question 1 - Did you send the runner to the Sgts-room where I attend classes?

Answer 1 - No.

Signed G. Hatch
B 29412 Sgt RCE

~~The above evidence taken down in my presence~~
~~& read over~~

Third Witness for prosecution

B 26126, L/Cpl Bertram, R.H., No 1 C.E.R.U. on strength of No 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian army O.S., having been duly sworn, stated as follows:

I, B26126, L/Cpl Bertram, R.N., being orderly cpl for Aug the 5th-44. Saturday afternoon Sgt March inquired at 1430 hrs regarding the orderly Sgt. I told him that I had not seen Sgt Quinn whom I was acting as and he told me to tell the orderly Sgt, to see Sgt march, when he comes in Sgt march left the orderly room and returned at 1600 hrs and inquired again regarding the orderly Sgt I told Sgt March that I had not seen the orderly Sgt. On Sunday, 6 Aug 44, at approx 1000 hrs, Sgt March inquired at orderly room, if I had seen Sgt Quinn, which I replied No.-

I read - examined by the present

Question 1- Did Sgt march instruct you to visit my Quarters?

Answer 1- He asked me to look through the spider, I went to spider 5 and didn't find him.-

Question 2- What time was that?

Answer 2- Approx between 1430 to 1500 hrs.

Question 3- Was that the only time that you looked for me?

Answer 3- Yes.

Question 4- Did you any time look in class-room where I attend the course?

Answer 4- No.-

Question 5- Were you instructed what cubicle I slept in?

Answer 5- No.-

Question 6- Do you know where company orders are posted?

Answer 6- yes.

Question 7- Where are the company orders posted

Answer 7- Spider 5- first half-way.

Question 8- Were you instructed to look for me on Sunday morning?

Answer 8- No.—

Signed Bertram
B26126-L/Cpl BERTRAM. R.N.

Fourth Witness
For the Prosecution

Lieut L.L. Bigg, A/adjt of "E" Coy, No1-C.E.R., on strength of No1 Canadian Engineer Reinforcement Unit, an officer of the Canadian Army (R.), having been duly sworn, states as follows:

I, Lieut L.L. Bigg, A/adjt of "E" Coy, No1-C.E.R. certify that the following exhibits marked "A" to "G", are true extracts from part I Orders, 142-3-4 dated 3-4 and 5 Aug 44, "E" Coy, No1-C.E.R. ~~I also produce certified true copy of~~

Signed [illegible]
A/Adjt. "E" Coy -
No1-C.E.R.C. -

The accused declines to cross examine the witness.

The accused was cautioned as follows:
Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but what you may 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. The accused reserves his defence.

I certify that the ~~proceedings~~ foregoing of evidence consisting of 5 pages have today been sworn by me in the presence of the accused and that Rules of procedure 4(c) (D) (E) and (F) have been complied with.

In the field,
11th Aug. 44

(D. Lee) - Lt. R.C.E.,
Officer detailed to take
Summary of Evidence -

Fourth Witness (Recalled)

For the Prosecution.

Lieut R.L. Bigg, on being recalled, gives the additional evidence under oath:-

"I present a certified True Copy of the original "Duties of Coy Orderly Sergeant". The original copy is available for perusal in the orderly book at "E" Coy, NOI-CGR-X"

R.L. Bigg Lt.
A/Adjt. "E" Coy
NOI-CGR-X.

XXXXX XXXXX

OFFICERS UNDER INSTRUCTION

Lt	G.H.	CLAWSON	1 CERU
Lt	E.H.	CAPSTICK	1 CERU
Lt	R.P.	ZIMMER	1 CASCRU
Lt	F.R.	REA	2 CARU
Lt	A.A.	MacARTHUR	1 CERU

LIST OF EXHIBITS

List of exhibits in the case of F-10198 Sgt Quinn,Gordon Bell,R.C.E.,No 1 Canadian Engineer Reinforcement Unit,a soldier of the Canadian Army OS.

Exhibit "A" - "E" Coy Part 1 Orders No 193,dated 3 Aug 44
Exhibit "B" - "E" Coy Part 1 Orders No 195,dated 4 Aug 44
Exhibit "C" - "E" Coy Part 1 Orders No 194,dated 5 Aug 44
Exhibit "D" - Certified true copy of THE DUTIES OF A COY ORDERLY SERGEANT"

APPLICATION FOR DEFENDING OFFICER

P-10196 Sgt Quinn,Gordon Bell,No 1 C.B.R.U.,desire to have an officer assigned, to represent me at my trial by FGCM. I desire the services of Capt S.T.MacDonald,C.R.E., 21st Army Gp, if he is available.

2nd choice

LIEUT I.A. RAY,C.R.E.

3rd Choice:

CAPT R.FARQUHER,
No 1 Base Park.R C.E.

SIGNED.....
(P-10196,Sgt Quinn,G.B.)

LIST OF WITNESSES:

List of witnesses in the case of F- Jo'98 Sgt Quinn,G.E.,R.C.E., No 1-Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army OS.

FOR THE PROSECUTION:

1. Lieut D.R. KLINE
2. B.38413 Sgt March G.J.
3. B.36136 L/Cpl Bertram,R.N.
4. Lieut R.L.Bigg

15,0

Pte. QUINN, H A

O. H. M. S.

M. F. B. 270

Correspondence to be PINNED here.

15.0.

Army Form A.3.

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

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this 29th day of July, 19 42

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; *[~~and that it is not practicable to delay the trial for reasons connected with the service~~]

* 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.

*[~~It is not practicable 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:—]

* Omit if not applicable

PROCEEDINGS REVISED

Lt Col Shields Comdg 1 Cdn Corps Signature of Convening Officer
28 Aug 42

President.

Rank.		Name.	Regiment.
Major	F.H.	Chisholm	1 Cdn. Corps Protective Coy

Members.

Rank.	Name.	Regiment.
Captain	L.H. Armstrong	82 Cdn A.A. Bde Coy
Lieutenant	R G Fraser	82 Cdn A.A. Bde Coy

* 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 (F.R. Shields) Colonel
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*)
D-76998	1st Charge	Guilty	Guilty	
Private	Sec.15 (1) A.A.			
Quinn, H.A.	2nd Charge	Not Guilty	Guilty	
R.M.R. (M.G.)	Sec.24 (2) A.A.		150 days Detention and placed under stoppages to pay to make good equipment loss of £1/13/8½	Confirmed P.R.S.

* Question to be asked of accused, if he pleads not guilty (R. of P. 30 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):— No.

(Signed) P.R. Shields, Colonel
Commanding R.C.A.S.C. 1 Cdn. Corps
Convening Officer (*e*)

(Signed)
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.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 31st day of July, 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.

* Omit if not applicable.

Signed this 31st day of July, 1942

President of the Court Martial.

C. Certificate in case of death sentences.

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

* See footnote (*b*) on page 762 M.M.L. 1940.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

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.~~)

* 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 suspension.

Signed this 3rd day of August 1942...

P. R. SHIELDS, Colonel
D.D.S.T., Cdn. Corps.
Confirming Officer.

Promulgated and extracts taken in the case of D 76998 Pte Quinn H A

(*a*) (Dated) 13 Aug 42 (Signed) [illegible] Lt Col

Promulgated and extracts taken in the case of Corporal Quinn

(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.

(51759) Wt. 40755—893 300-9 Lpz P.B. G. Ltd.

Appendix (A)

Application for Field General Court Martial
D76998, Pte. Quinn, H.A. Royal Montreal Regt (MG)

CHARGE SHEET

D76998, Pte. Quinn, Henry Alaster, a soldier of The Royal Montreal Regiment (MG) C.A. (A.F.) is charged with while on active service,

First Charge — Absenting himself without leave,
A.A. 15(1)

in that he,

absented himself without leave at Petworth, Sussex at approx 1100 hrs, 4 Jul 42 until he was arrested at Petworth, Sussex at approx 2310 hrs, 28 Jul 42.

Second Charge — Losing by neglect his clothing, equipment and regimental necessaries,
A.A. 24(2)

in that he,

at Petworth, Sussex, was deficient of the following items of equipment valued at 75% of Ordnance Vocabulary Prices.

		£ s. d.
Bottles, Water	1	- 2 2½
Carriers waterbottle	1	- 2 5½
Frogs, bayonet,	1	- 1 1½
Sheets, Ground,	1	- 8 0½
Shirts, Angola, Drab	2	- 13 9
Brushes, shoes blacking	1	- - 6
Housewife, filled	1	- 1 8½
Shorts, P.T.	2	- 2 10
Vests, P.T. Cotton	1	- 1 1½
		£ 1:13: 5½

In the field,
29 Jul 42

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

To be tried by Court Martial.

J.H.C. Clancy
CAPTAIN ADC
R.C.A.S.C. Cdn. Corps.

Field.
30 July 42.

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

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL, held at Petworth, Sussex on the 31st day of July 1942, by order of Colonel P.R. Shields, D.D.S.T. 1 Cdn Corps dated 30 Jul 42.

PRESIDENT

Major F.H. Chisolm — 1 Cdn Corps Protective Coy

MEMBERS

Capt. L.H. Armstrong — 82 Cdn A.A. Bde Coy
Lieut R.O. Fraser — " "

At 1000 hrs the Court opens.
The order convening the Court is read to all present.
The accused after having the names of the president and members of the court read to him states that he has no objections to being tried by them. The accused also states he has no objections to the shorthand writer.

Prosecuting Officer - Capt. B.W. Stevens - R.M.R. (MG)
Defending Officer - Lieut. E.W. Waud - R.M.R. (MG)

The accused D/6998, Pte. Quinn, H.A. of The Royal Montreal Regiment (MG) C.A. (A.F.) is called and identified.

The charge sheet is read by the President and the accused pleads Guilty on the first charge and Not Guilty on the second charge. The charge sheet is signed by the President and attached to the Proceedings.

The court proceeds to try the accused on the second charge.

The accused is asked whether he wishes to apply for an adjournment on grounds that any of the rules relating to procedure before trial have not been complied with, and that he have been prejudiced thereby, or on the ground that he has not had sufficient opportunity for preparing his defence. The accused answered "No".

The first witness for the Prosecution, D/6340, C.S.M. (S.Q.II) Hayden, W.C. M.M. is called, identified and sworn.

Prosecutor: Did you check the kit of the accused on 29 Jul 42.
C.S.M. Hayden: Yes, Sir.
Prosecutor: Will you present a list of the deficiencies to the Court?
Witness present Cert ficate of Deficiencies of Kit (B 118) to Court.
Prosecutor: Are the prices 75% of Ord. Vocabulary Prices.
Witness: Yes, Sir.
Defending Officer: (addressing accused) What do you take objection to or on this list.
Accused: I loaned the ground sheet to one of the batmen who lost it. I was only issued one pair of shorts P.T. and one vest P.T. at the reinforcement unit. Otherwise the list is correct.
President: Can you prove the accused was issued with two pair of P.T. vest and shorts.
Witness: No, sir. But when the accused was transferred to this company the C.Q.M.S. of the former company reported he had his full scale equipment.
President: (addressing accused) When C.S.M. Hayden checked this equipment did you object then.
Accused: When he came to the P.T. shorts and vests I said I had only been issued with one pair.

(sheet two follows)

The Court then proceeds with the first charge.

The accused was asked if he understood the full nature of a plea of Guilty on this charge. He answered in the affirmative. (R.P. 35 (b) complied with)

Plea of Mitigation:-
Lt. Waud. "Allthough the summary of evidence states he was arrested, the accused had come back to give himself up.

Accused. "When I first came over here in 1940 I was at the reinforcement unit for about two weeks and they put me on ~~one~~ O.C.T.U. I was married just before coming overseas. My wife was expecting a baby when I left, and I received letters while at the O.C.T.U. regarding this. A few months later I received a letter saying there would be no baby. This has made me depressed as I have written to my wife several times and have not received a reason for this happening.

Lt. Waud: During the time the accused has been with the regiment he has been in my Platoon and I know he has had a great deal of trouble with his wife and his wife's family, and it has played on his mind. About a year ago his wife wishe to get an annulment. She is about 19 years old and his age is 21. The accused has had a lot of difficulties from home in letters etc. At one time it was cleared up by the Padre but it has again broken out and I wish to bring the state of mind of the accused to the court's attention. I am not denying the guilt of the accused but wish to point out that he is unhappy over here.

President: Why did you go A.W.L. this time.

Accused: A little while ago I got in trouble with the civil authorities and when I came back after getting out of prison the Colonel asked me about the trouble back home. I asked him for a transfer to the R.C.O.C. as I was unhappy here. He gave me 21 days detention and when I came back I was sent to H.Q. coy as a batman. The Colonel's batman lost £20 and one of the boy's suggested that it was I who had taken it. I thought it was no use staying there when they thought I took it.

President : Why did you come back.

Accused: I would have come back sooner but didn't have the fare from Glasgow. I finally got it by telling the M.P.'s I was on leave and they gave me the fare.

President: What charge were you on the last time you were up before the Colonel.

Accused: A.W.L. - the time I was in trouble with the Civil Police.

Certified copy of the accused's conduct sheet and also Statement as to Charac ter of the Accused (A.F.B. 296) are presented to the Court by the Prosecuting Officer. These are signed by the President and attached to the Proceedings.

The court is closed for consideration of sentence.

Summary of Evidence in the case of No. D76498
Pte QUINN, H.A. of The Royal Montreal Regt. (M.G.) C.A.(A.F.)

By direction of the Commanding Officer The Summary of Evidence is taken on Oath.

1st Witness for the Prosecution — D76817 L/Cpl LAVERY, E.E. of the R.M.R.(M.G.) C.A.(A.F.) having been duly sworn states: "I saw N.C.O. i/c hut in which Pte Quinn sleeps. at 1100 hrs on 4 July 42 I looked for Pte Quinn but was unable to find him. I reported this to Coy. Officer."

The accused declines to cross-examine the witness

E E Lavery
D76817 L/Cpl. LAVERY, E.E.

2nd Witness for the Prosecution — D76128 Sgt. WHITE, C.C. of the R.M.R.(M.G.) C.A.(A.F.) having been duly sworn states: "I am Regimental Provost Sgt. On the night of 28 July 1942 at 2310 hrs I saw the accused enter Camp. I knew he was A.W.L. so I arrested him."

The accused declines to cross-examine the witness

C C White Sgt
D76128 Sgt. WHITE C.C.

3rd Witness for the Prosecution — D76340 C.S.M. (W.O.2) HAYDEN, W.C. of the R.M.R. (M.G.) C.A.(A.F.) having been duly sworn states: "I checked the kit of the accused on 29 July 42 and found deficiencies in clothing and equipment as per attached list valued at 75% of Ordnance Vocabulary Prices. The total amount being $1-13-8"

W C Hayden
D76340 C.S.M. HAYDEN, W.C.

The accused declines to cross-examine the witness

Statement of: D 16998 Pte QUINN, H.A. of The Royal Montreal Regt. (M.G.) C.A.(A.F.)

The accused having been cautioned in accordance with R.P. 4(E) declines to make any statement.

"I certify that the foregoing summary of evidence was taken down by me in writing in the presence of the accused and rules of procedure 4(c)(D)(E) and (F) have been complied with"

J.H. Rowe Capt.
J.H. ROWE CAPT. R.M.R. (M.G.) C.A.(A.F.)

Date 29 July 1942
Place In the Field

Appendix "B"

SUMMARY OF EVIDENCE in the Case of D76900 Pte. QUINN, H.A. of the ROYAL MONTREAL REGIMENT (MG) C.A.(A.F.)

By direction of the Commanding Officer this Summary of Evidence is taken ON OATH.

1st Witness for the Prosecution

D76817 L/Cpl. LAVERY, E.E. of the Royal Montreal Regiment (MG) CA(AF), having been duly sworn states: " I am N.C.O i/c of the hut in which Pte QUINN sleeps. At 1100 hrs on the 4th July, 42 I looked for Pte Quinn, but was unable to find him. I reported this to the Coy. Office. "

The accused declines to cross-examine the witness.

D76817 (E.E. LAVERY) L/Cpl.

2nd Witness for the Prosecution

D76128 Sjt. WHITE, C.C. of the Royal Montreal Regiment (MG) CA(AF), having been duly sworn, states: " I am the Regt'l Provost Serjeant. On the night of the 20th July, 42, at 2310 hrs I saw the accused outor Camp. I know he was A.W.L. so I arrested him. "

The accused declines to cross-examine the witness.

D76128 (C.C. WHITE) Sjt.

3rd Witness for the Prosecution

D76340 CSM (WOII) MAYHEW, W.C. of the Royal Montreal Regt (MG) CA(AF), having been duly sworn, states: " I checked the kit of the accused on the 20th July, 42 and found deficiencies in clothing and equipment as per attached list, valued at 75% of the Ordnance Vocabulary Prices. The total amount being, £1-13-8½ " "B"

The accused declines to cross-examine the witness.

D76340 (W.C. MAYHEW) CSM (WOII)

Statement of

D76900 PTE. QUINN, H.A. of the Royal Montreal Regiment (MG) C.A.(A.F.)

The accused, having been cautioned in accordance with Rules of Procedure 4 (c) declines to make any statement.

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

(J.L. HUGG) Capt.,
R.M.R. (MG) CA(AF).

DATE: 29 July, 1942
Place: In the field.

LIST OF RECTIFICATION of kit, in the case of [illegible]
[illegible], R.A. The Royal Scottish Regiment. (TR) 2A(AT).

		£	s	d
Bottles, water,	1	-	2	0½
Carriers, watertottle	1	-	5	0½
Frogs, bayonet,	1	-	1	1½
Shoots, ground,	1	-	0	0½
Shirts, Aryels, drab,	2	-	15	0
Brushes, Boots, Polishing,	1	-	-	6
Impression, filled.	1	-	1	0½
Sheets, F.S.	2	-	2	10
Vests, P.T., Cotton,	1	-	1	1½
		£ 1	13	0½

[illegible]

The accused, D76986 Pte. QUIRK, H.A. requests that Lieut. E.W. WAUD, of The Royal Montreal Regiment (MG), defend him.

(J.T. BLUE) Capt., R.M.R(M.G.)

LIST OF WITNESSES.

1st Witness for the Prosecution — D76617 L/Cpl. LAWSKY, E.E. The Royal Montreal Regiment (MG) C.A. (A.F.) In the Field

2nd Witness for the Prosecution — D76126 Sjt. WHITE, C.C. The Royal Montreal Regiment (MG) C.A. (A.F.) In the Field

3rd Witness for the Prosecution — D76340 CSM (WO II) HAYDEN, W.C. MM The Royal Montreal Regiment (MG) C.A. (A.F.) In the Field.

(J.L. BLIZE) Capt.,
Commanding "[illegible]" Company.,
R.M.R. (MG) C.A. (A.F.)

Appendix C

LIST OF DEFICIENCIES of kit, in the Case of D76988 Pte. QUINN, H.A. The Royal Montreal Regiment. (MG) CA(AF).

		£	s	d
Bottles, water,	1	-	2	2½
Carriers, waterbottle	1	-	2	5½
Frogs, bayonet,	1	-	1	1½
Sheets, ground,	1	-	8	0¾
Shirts, Angola, drab,	2	-	13	9
Brushes, Boots, Polishing,	1	-	-	6
Housewifes, filled,	1	-	1	8¾
Shorts, P.T.	2	-	2	10
Vests, P.T. Cotton,	1	-	1	1½
		£ 1	13	8½

W.C. Hayden C.S.M.

D76340 CSM (WO II) HAYDEN, W.C.

Appendix (D)

M.F.M. 6

No. D76098 Name QUINN, Henry Alaster | Sqn., Battery, or Company: C Coy | Corps: R.M.R. (MG) | Date of enlistment: 27 Jan 40 | G.C. Badges | Service or Proficiency Pay | Character

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.

Certified true copy
W.R. Stevens Capt
Unit Adjt.

Place	Date of offence	Rank	Cases of drunkenness	Offence	Name of Witnesses	Punishment awarded	Date of award or of order (leave) rescinding with Hdqrs	By whom awarded	Remarks
In the field	30 Dec 41	Pte	-	15(1) AWL 2230 hrs 30 Dec 41- 1100 hrs 7 Jan 42 -7 dys 12 hrs	Sgt. Meredith L/Cpl Butt	28 Days F.P.	31 Mar 42	Lt.Col. J.A. Calder	A.F. of Pay 8 dys 8 dys 21 dys
" "	7 Jan 42	"	-	15(1) AWL 1600,7 Jan-1200 12 Jan 4 dys 20 hrs.	" " Sgt. Meredith	28 dys pay			
" "	12 Jan 42	"	-	15(1) AWL 1900 12 Jan-1500 2 Feb 20 dys, 20 hrs.	Cpl. Craddock Civil Police				
" "	23 May 42	"	-	(1) 15(1) 2230 hrs 26 May -2030 hrs 27 May - 1 day	Sjt. Kowalski Pte. Proulx	5 dys C.B.	1 Jun 42	Capt. J.L. Blue	A.F. 1 dys pay
" "	30 May 42	"	-	(2) 15 (1) 1400 hrs 30 May - 1930 hrs, 30 May 42 whilst under open arrest	Pte. Proulx Sjt. Kowalski	5 dys C.B.	1 Jun 42	" "	
" "	25 Jun 42	"		15 (1) AWL (24 hrs)	CSM Hayden L/Cpl Dewar	14 dys C.B.	30 Jun 42	Capt. J.L. Blue	A.F. one dys pay

FTO

No. D76998 Name QUINN, Henry Alaster. Sqn., Battery, or Company "C" Coy Corps R.M.R. (MG) Date of enlistment 27 Jan 40 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 119)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — 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	W.O.A.S. OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
COTEAU BKS	20-5 1940	Pte	-	A.A. SECT 15(1) AWL from 0530 to 1230 hrs 23 May 40	SjtMelrille	ADMONISHED		Major WATSON	4 Days Pay
VALCARTIER CAMP.	24-6 1940	Pte	-	A.W.L. 0600 hrs 24/6/40 to 2150 hrs 2/7/40-8 dys, 15 hrs, 50 min	Cpl Lathem " Mayhew	9 Days CB	3/7/40.	Lt TEMPLETON	AF 9 Days Pay
BORDEN	2-1-1941	Pte	-	A.A. Sect 15 (1) ABSENTING HIMSELF AT 1900 hrs.	Mjr BAKER XXXXXXXXX	AWARDED FORF 4 dys Pay.	3-1-41	LT COL CARPENTER	
BORDEN	21-2 1941	Pte	-	AWL 14 days & 20 mins.	SJT MUSHET	21 Dys Detn	8-3-41	Mjr W.C. McQUADE	FORF 15 Dys Pay.
BORDEN	14-5 1940	Pte	-	ABSENTING HIMSELF FROM A PLACE OF PARADE Sec 15 (2) ABSENT FROM DEFAULTERS AT 1750 hrs and 1900 hrs	A/SJT BERRY	7 dys F F	16-5-41	Lt Col TYNER	Forf 7 Days Pay.
BORDEN	20-5 1941	Pte	-	A.A. Sect 15 (1) AWL 17hrs 50 min A.A. 15(3) BROKE BARRACKS AS A DEFAULTER.	DOCUMENTARY	27 dys Detn forf 4 dys pay	4 Jun 41	Lt Col TYNER	Forf 14 dys Pay Total Forf 45 dys Pay.

Place	Date of offence	Rank	Corps or detachment	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the field	8-12-41	Pte.		A.A. 15 (1) from 2330 hrs to 2300 hrs + 30 mins	L/Cpl Randall Sgt.Meredith	14 days C.B.	11-12-41	Major J.M. Laing	
"	" 8:12:41	Pte		Neglect (AASec40) Neglected to draw water out of truck	CSM McIntosh	7 dys F.P.	13 Dec 41	Lt.Col.J.A. Calder	
"	"12: 12: 41	Pte.		A.A. 40 Neglect: Rifle found loaded on billet inspection	Sgt. French	7 days pay 7 days F.P.			
"	" 23:12:41	"		A.A.15(1) Found beyond limits of camp without written leave or Pass	Sgt. Page	7 days pay	27 Dec 41	Maj. D. MacRae	Forfiets 4 dys pay close arrest.

At the end of two years service a new conduct sheet was made out. There were the above Regimental Entries on the old sheet.

(signed) J.M. Laing, Major
Commanding C Coy, R.M.R. (MG)

Carshalton	1 Feb 42	Pte.		Stealing from 16 Green Wrythe Lane property value £10/-/-		2 mos. imprisonment 2 " hard labour	17 Feb 42	Mitcham, Sy.	"W" Div. A.F. 56 dys pay 1 dy A.F. close arrest
	2 Feb 42			Obtaining with intent to defraud from H.M. Postmaster General the sum of £3 by virtue of forged P.O. receipt form knowing it to have been forged		to run concurrent in H.M. Prison Feltham, Middlsex.			

Appendix "E"

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
276998	Pte	QUINN H.A.	R.M.R. (HG)

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.—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 the statement but not inserted in the proceedings.

† See para. 677, K.R., 1940.

* The various items stated should correspond with the number (or more), in the conduct sheets, permission being given to the court to take account of offences in each entry, and to any recognised special rate of gallantry or distinguished conduct.

Instructions.—If the charge-sheet or summons the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.W.L. AA. 15 (1)	2 times	13 times.
For CONDUCT ETC. AA. 40	2 times	2 times.
For A.W.L. A.A. (52)	— times	1 times.
For DRAWING RES. 15 (3)	— times	1 times.
For	times	times.

Number of instances of gallantry or distinguished conduct, N/A

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~~ N/A days in civil custody, and ~~days~~ days in military custody, making a total of ~~days~~ days, of which N/A days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21 years

6. The date of his ~~enlistment~~ attestation specified in his record of service attestation paper is 27 JAN 40

~~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 service.~~

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

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

~~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~~

(*16540) W.L.20/240/502 75,000 12/40 A & E.W.Ltd. Gp.698

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.

No. 876998 Rank Pte Name GUNN H A of R.A.M.C. (M.O.) Regiment (or as the case may be).

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

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, 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.
MYCHAM Pen/Sessions	17 FEB 1942	STEALING PROPERTY VALUED AT £10-0-0	2 MONTHS HARD LABOUR	TO RUN CONCURRENT
		OBTAINING WITH INTENT TO DEFRAUD FROM H.M. POSTMASTER	2 MONTHS IMPRISONMENT	
		GENERAL THE SUM OF £3-0-0 BY MEANS OF FORGED	WITH HARD LABOUR & H.M.	
		P.O. RECEIPT FORM, KNOWING IT TO HAVE BEEN	PRISON FELTHAM MIDDX.	
		FORGED		

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 29 day of July 1942

W. Stevens Capt RAMC
Unit (M.O.)

In the rank of ..... Date of Promotion.
In the rank of ..... years.
In the rank of ..... years
In the rank of ..... years.

(INSTRUCTION—If any mention on any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information must be collated from such sources as are available and the paragraph completed accordingly.)

48. The accused has served as a non-commissioned officer continuously, without reduction, as the present date.

2 J - 20

Pte Lunn J 6.

SCHEDULE.

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

Accused: G-24039 Pte John Clement QUINN 2 Cdn NETD

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd	NOT GUILTY	NOT GUILTY	
3rd Alternative	NOT GUILTY	GUILTY	
4th	NOT GUILTY	NOT GUILTY	
5th Alternative	NOT GUILTY	GUILTY	
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 lieu of kit see RP 44 fn 6.)

~~(A) [illegible] "APC"~~ (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 6 days, of which nil days were spent in hospital. "APC"
(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 one year "APC"

(Sgd) Judge-Advocate, if any. 4 Apr 45 Date awarded. (Sgd) "A.F. CANNON" President. (RP 45, 50.) "APC"

(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) 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 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 fn 6.)

My decision on the finding(s) and sentence set forth in Part I is I confirm the finding of The Court, on the first and fifth charges. I do not confirm the finding on the third charge. I confirm the sentence.

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

(Sgd) "J.C. STEWART" Brigadier
Date 9 Apr 45 Commanding OIC Cdn Sec 1 Ech AFHQ
Confirming Officer.

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

Accused.	Date.	Signature of Offr.
G-24039 Pte QUINN, J.C. 2 Cdn NETD	11 Apr 45	"D.J. BURGOYNE" Major O.C. No.2 Cdn NETD

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY
(Sgd) [illegible] Capt
Cdn Sec 1 Ech AFHQ
15 May 45

Pte Record 99 5 J - 20

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40: P.A.B. (1908) (2664)

Convened by Order of Col S.A. LEE Comd 1 CBRGp dated 3 Apr 45

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-24039	Pte		John Clement	QUINN	2 Cdn NETD

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 4 Apr 1945

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 INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn 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, CF AF5, 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 13, RP 56, 63-70, 73, 74, 84, 103, 119, 120.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto. "APC" The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and "APC" each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused ~~is not~~ is brought before the Court. At 1335 hours trial commences. "APC"

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial. "APC"
~~The Prosecutor informs the Court that accused is to be tried by court-martial notwithstanding that a medical officer~~ "APC"
~~considers it undesirable~~
(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~The accused is informed by the Judge-Advocate~~ "APC"
~~The interpreter is sworn.~~ Do your object to H36757 Pte Bond HW as shorthand "APC" writer? Ans No "APC" "APC" 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) "APC"
(1. RP 100. 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.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A.F. CANNON	12 Cdn Town Major
Member	Capt	J.L. WALLACE	2 Cdn NETD "APC"
Member	Capt	W.J.M. MOGAN	HQ 1 CBRGp "APC"
Judge-Advocate	-----	-----	----- "APC"
Prosecutor	Lieut	D.M. NICOL	2 Cdn NETD "APC"
Defending Offr	Lieut	S.G. MULLIN	2 Cdn NETD "APC"

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No "APC"
(1. RP 28, 27, 109, 111. Lists of offrs under instr will be returned separately with proceedings for information of Convr (Offr).
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (2) and fn 2 were not followed. See Ord p 2.)

A8. The accused ------- "APC" before arraignment make(s) (no) objn (2) plea
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 120, RP 37), 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 fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned (~~severally~~) on all charges in the charge sheet.(1) The accused does (do) "APC" 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 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 0 - 65

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening 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. "APC"

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

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

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

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witness 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 recalling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 37(*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) "APC" call witnesses as to character and make an address in mitigation of punishment.[2] "APC"

(*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] "APC"

President to accused : Do you wish to make a statement ? Ans No "APC" [5]

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

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his plea(s) of Guilty to Not Guilty on the first charge. [2] "APC"
[illegible] "APC"

(*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] "APC"

(*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 P1, initialled and read aloud by the President.[1] "APC"

(*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 paras 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 B4 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 C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having changed his plea to Guilty on the charge(s) to which pleas of Not Guilty were recorded, the proceedings are concluded by using Record Form E on p 3. "APC"

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 "APC"

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

D2. The Prosecutor makes (no) opening address.[1] "APC"

(*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] [illegible] "APC"

(*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 Do you intend to call witnesses on your behalf ? "APC" Ans No Are they witnesses as to character only ? Ans "APC"

(*1. RP* 153. *2. RP* 40(*A*), *see* 80(*D*). *3. RP* 40 *fn* 10. *4. RP* 40 *fns* 2, 9.)

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

(*1. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. Cf. RP* 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 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. "APC"

(*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 3rd and 5th charge(s), being subject to confirmation, will be promulgated later.[1] "APC"

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(3) (*c*), *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, you are now at liberty to make a statement in mitigation of punishment if you so desire. You are warned that you are not obliged to say anything unless you wish to do so, but whatever you say will be recorded and may be given in evidence upon any trial that may be held on you hereafter for any offence. You may make your statement on oath or not on oath, as you prefer. Which do you prefer ? Ans [illegible] "APC"

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 "APC"

(*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 P4 and Ex P5 respectively.[3] "APC" "APC"

(*1. MFB* 355 *or AFB* 296. *2. MFM. 6. 3. RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *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. Through my defending officer "APC" [2]

(*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]

(*1. AA* 54(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* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its provisos, 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, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(3), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Can* 564. *2. RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and dispatch of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"AFC"

CHARGE SHEET

The accused, C.24039, Private John Clement QUINN, No. 2 Canadian Non Effective Transit Depot, 1 Canadian Base Reinforcement Group, 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 Italy, at approx 2200 hrs 6 Mar 45 absented himself without leave until about 1845 hrs 28 Mar 45.
(Total Absence: 21 days, 20 hrs, 45 mins).

SECOND CHARGE
Sec 15 (4)
Army Act

WHEN ON ACTIVE SERVICE, STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

in that he,

in the field in Italy, on or about 28 Mar 45, did steal a greatcoat the property of B.73788 Pte CARR, E., a person subject to Military Law.

THIRD CHARGE
Sec 40
Army Act
(Alternative)

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

in that he,

in the field in Italy, at about 1900 hrs 28 Mar 45 was improperly in possession of a greatcoat, the same being public property.

FOURTH CHARGE
Sec 15 (4)
Army Act

WHEN ON ACTIVE SERVICE, STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

in that he,

in the field in Italy, on or about 28 Mar 45, did steal a greatcoat the property of M.1454 Pte FELLOWS, R.E., a person subject to Military Law.

FIFTH CHARGE
Sec 40
Army Act
(Alternative)

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

in that he,

in the field in Italy, at about 1900 hrs 28 Mar 45 was improperly in possession of a greatcoat, the property of M.1454 Pte FELLOWS, R.E.

Approved on behalf
of the J.A.G. Canada
Ottawa pursuant to
KR(Can) 540 & Ottawa
RO 4752 - W.A.D. Jones
Major
A/JA

In the Field
2 April 45

D.J.Burgoyne
(D.J.Burgoyne) Major
Commanding Officer
No 2 Cdn N.E.T.D.
1 Cdn Base Rft Group

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

S.A.Lee.
(S.A. Lee) Colonel
Comd 1 Cdn Base Rft Gp

In the Field
In Italy
3 Apr 45

FIELD GENERAL COURT-MARTIAL

CFA35 (In lieu of AFA3)
40/FA3/1697 (2663)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate 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, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-24039	Pte		John Clement	QUINN	2 Cdn NETD

CONVENTING 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 "AFC" (date) 3 Apr 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 "AFC" Court-Martial; ~~And that it is not practicable to delay the trial for reference home, military exigencies not permitting.~~ "AFC"
(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 "AFC" or detailed hereunder.

4. ~~If, at any time after appointment but before the Court has begun to sit, a Fd Offr as President, or the only or senior member, becomes~~ "AFC"
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate to attend the Offr mentioned hereunder~~ "AFC"
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	A.F. CANNON	(CIC)	12 Cdn Town Major

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	J.L. WALLACE	(RCA)	2 Cdn NETD
Capt	W.J.M. MOGAN	(CAC)	HQ 1 CBRGp

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lieut to be detailed by OC 2 Cdn NETD		

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in Italy (Country.)

"S.A. LEE" (Signed personally. RP 105 fn 2.)

Colonel (Rank.)

Date 3 Apr 45

Commanding 1 Cdn Base Rft Group
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

"AFC"

MEDICAL OFFICER'S CERTIFICATE

I hereby certify that I have this day examined

No G-24039 Rank Pte Name QUINN CJ

and in my opinion is fit to undergo trial by Court Martial.

Date 4 Apr 45

"J W McMartin Capt"
Medical Officer

D-62197 BQMS DAWSON, F.R. 1/c Bordon Barracks being duly sworn states:

QUESTIONS BY THE PROSECUTING OFFICER

Q. Do you recognize the accused in this Court?
A. Yes, I do.

Q. Will you describe the circumstances surrounding the placing of the accused under custody?
A. I was standing talking to the picquet on the Bordon Barracks, with Sgt Ironside, when the accused came down the stairs carrying what I thought was one greatcoat. The picquet questioned him to the effect that it was too warm a night to go out with a greatcoat and then asked him to take it back upstairs. I then told the picquet togo upstairs with him. On the way upstairs, in full view of me, one greatcoat fell from outside. I then noticed that he had two. The picquet told him to go downstairs again. I looked at both greatcoats and immediately had the man placed under arrest. After placing him under arrest I checked, through my office, and found the man did not belong to Bordon Barracks. That is all I know about the case.

Q. Was the loss of greatcoats of personnel reported to you?
A. Yes, there was.

Q. Who?
A. By one Pte Carr and one Pte Fellows at 0900 hrs the following morning.

Q. Can you describe these greatcoats?
A. Yes, Sir, I can describe one as having Loyal Edmonton Flashes on bot shoulders and having a man's number inside on the pocket, I believe on the right-hand pocket.

Q. Is this the greatcoat?
A. Yes, Sir.

QUESTIONS BY THE COURT

Q. How do you identify the greatcoat?
A. By the Loyal Edmonton Patch on the shoulder.

PROSECUTION

Q. Is that the same number you saw at the time you had the accused placed under custody. (Exhibit 72 - one overcoat)
A. Yes Sir.

Q. And the other greatcoat?
A. The other greatcoat was an American one and had no markings or distinguishing flashes on it except that it was new and size 8.

Q. Can you say if this is the greatcoat? (Exhibit 73 - one greatcoat)
A. To the best of my knowledge, yes Sir.

Cross-Examined:-

Q. Where did you see the accused in the Bordon Barracks?
A. I seen him going down the stairs, Sir, as I was passing that way.

No Re-examination.

Not necessary to comply with R.P. 83(b).

SECOND WITNESS D-81848 Sgt IRONSIDE, G.A., X-4 List Gen List, employed as clerk in the orderly room of X-8, at the time, being duly sworn, states:

Q. Do you recognize the accused in this Court?
A. Yes, Sir.

Q. Will you tell the Court what you know about the accused and what occurred on the night of 28 March 1945?

A. At approximately 1900 hrs on the 28 March 1945 I was proceeding out of camp, accompanied by S/Sgt Dawson. I stopped to converse with the guard on duty at the bottom of the stairs, leading out of Gordon Barracks. It was at this time I saw the accused carrying down the stairs what I thought was one greatcoat. The guard, on my instructions stopped him and enquired where he was going to take the greatcoat, and the reply was that he was taking it to his friend in the latrine. There being no reasonable answer, he was ordered to take the greatcoat back up-stairs. His action seemed somewhat hesitent so on suspicion I then with the guard, decided to accompany the accused upstairs. On the half-way landing the accused laid the greatcoat on the floor - saying he can come and get it himself. He then started to run down the stairs and the guard at the bottom of the stairs, on my warning, stopped him. CQMS Dawson ordered the accused to bring the greatcoat, which I thought at the time was only one, to him. On bringing up this greatcoat another one fell from outside the first. It was then that CQMS Dawson ordered the accused into custody. Picking up both greatcoats, for means of future identification, I looked at one of them which had the Loyal Edmonton Regiment flashes, and the First Dividional Patches on the shoulders and sleeves. In one pocket was a small quantity of sugar. The other greatcoat was a new greatcoat of a very recent pattern, with non-metal buttons. The other had no other means of identification. That is all I know.

Q. Can you identify the two greatcoats?
A. I can identify that as the greatcoat I took up from the accused. This greatcoat looks very much like the one that dropped out but cannot say that it is the same one.

Cross-examined:

Q. Sgt Ironside, can you say that the accused had been drinking that night?
A. I could not say that he had been drinking, he was not under the influence of alcohol.
No Re-examination.

QUESTIONS BY THE COURT

Q. You quoted the accused as saying when the accused left the greatcoat on the floor - he can come and get it himself?
A. Yes, Sir.

Q. Do you know from the conversation whom he referredto?
A. No, Sir.

Not necessary to Comply with R.P. 83(b)

THIRD WITNESS B13701 Pte HARDING, R.A., X-8 List No.2 Cdn NETD, Cdn Army C.M.P., being duly sworn, states:

Q. Can you recognize the accused person in this Court? Point him out?
A. Yes, there he is.

Q. Will you tell the Court what you know about the accused, which occurred the night of 28 Mar 45?
A.

.....3/

A. At approximately 1845 hrs on the 28 Mar 45 the accused came with the greatcoat under his arms. I stopped him and asked him where he was going with the greatcoat, he said he was taking it to a friend in the latrine. He was told to take the greatcoat back upstairs. While I, Sgt Ironside and the accused was going up-stairs, he dropped the greatcoat on the floor. Sgt Ironside picked up the two greatcoats, it was the first time I saw two greatcoats. S/Sgt Dawson ordered him to take him over to the guard room, that's all.
Q. What was your duty at this time?
A. Night picquet on the Bordon block.
Q. Stationed where?
A. at the bottom of the stairs.
Q. Can you describe this greatcoat?
A. One of them had 49 Edmonton Flashes on. The first one looked like a Canadian greatcaot and the red patches on the other was a Yank made greatcoat and the only way I can identify it is that it had dust on it.
Q. Is that the greatcoat?
A. Yes, This is it.

The prosecuting officer shows the witness the greatcoat. (Exhibit P-2). The prosecuting officer shows the witness the greatcoat. (Exhibit P-3).

Q. Is this the same greatcoats?
A. Yes, Sir.

QUESTIONS BY THE COURT

Q. The second greatcoat you were shown, by what means can you identify it?
A. It was a Yank greatcoat and it had dust on it.
Q. Did you check to see if the accused had a friend in the latrine?
A. No, Sir.
Q. Did you see anyone else checking?
A. No, Sir.
Q. Would the accused normally go down these stairs to the latrine?
A. Yes, he would, Sir, if he was going to the latrine.

QUESTIONS BY THE DEFENDING OFFICER

Q. Was it cold enough on the night of 28 Mar 45 to wear a greatcaot?
A. No, it was not cold enough.

No R.-examination.
Not necessary to comply with R.P. 83(b).

FOURTH WITNESS B73788 PTE CARP, S. - 16 Spec Employment Coy, - quartered in Bordon Block, being duly sworn, states:

Q. Have you recently lost a greatcoat?
A. Yes, Sir, the first time I missed it was on the 29 Mar 1945, at approximately 0620 hrs.
Q. To whom did you report the loss?
A. First to the Guard Room and then to our X-8 Orderly Room S/Sgt Dawson.
Q. Has this greatcoat since been returned to you?
A. No Sir.
Q. Will you describe this greatcoat?
A. It is an American greatcoat, size 8.
The prosecuting officer shows the witness the greatcoat (Exhibit P3).
Q. Is this your greatcoat?
A. Yes Sir.
Q. Do you recognize the accused in this Court?
A. Yes No Sir.

QUESTIONS BY THE COURT

Q. You have been using that greatcoat as a pillow at night, is that right?
A. Yes Sir.

Q. Did you use it as a pillow on the 28 Mar 45?
A. I did not miss it until morning.

Q. Did you know before you reported your loss that a greatcoat or greatcoats had been found?
A. No Sir.

No Cross-examination.

FIFTH WITNESS: M1454 PTE FELLOWS, H.E. - Loyal Edmonton Regiment, now on X-S List., Quartered in Bordon Block, on third floor, being sworn, states:-

Q. Have you recently been short a greatcoat?
A. Yes Sir.

Q. When?
A. On or about the 28 Mar 1945, between 8.00 and 9.00 in the evening.

Q. Did you report the loss to anyone?
A. I reported the loss to the picquet on the floor immediately I noticed it was gone. I also report it to the Orderly Room, to S/Sgt Dawson.

Q. How did you describe the greatcoat to S/Sgt Dawson?
A. I told him it was a Canadian greatcoat with Loyal Edmonton Flashes on. There was one button missing from the greatcoat and there was a buckle missing from the back of the web belt, which was in one of the pockets. There was some sugar wrapped up in some paper, and also one pair of gloves.

The Prosecuting Officer shows Exhibit P2 to the witness.

Q. Is this your greatcoat?
A. Yes, the button is missing, there is the Loyal Edmonton Flashes, the sugar is in the pocket, ad there is the buckle from the web belt.

Q. Have you since had your greatcoat returned to you?
A. No Sir.

Q. If you recognize the accused in this Court, will you point him out?
A. Yes, that is him there.

Q. Did you know the accused prior to the events which develop from the loss of your greatcoat?
A. No Sir.

DEFENDING OFFICER TO THE COURT:- Mr. President and members of the Court: My purpose is to give you a brief outline of the events which occurred on the night of the 28 Mar 1945. The accused, Pte Quinn, returned from an absence without leave. He reported to his original barracks, Cliffside Canadian Barracks, and found that it was 2 Cdn NETD. During the evening the accused had been drinking considerably, reasons for that I shall present later. However, the accused had been drinking. His intention was to report on the morning of 29 Mar 1945. He went into Bordon Block and on the second floor he met another soldier, and he asked him if he would be able to get him two blankets for a bed. This occurred on the landing of the second floor, not actually in the billeting quarters on the second floor. The soldier told him it was possible and went

instead of the evening of the 28 Mar 45.

into the billeting quarters and returned with two greatcoats which he said were in lieu of two blankets. Unfortunately, the accused, being new to these quarters, did not know the soldier's name, nor could he recognize him if he saw him again. You will note, gentlemen, that the statement that the accused made when he said, He could come up and get it himself, was not referring to anyone on the top floor, or any person in the basement, but to a person on the second floor of the building. The accused, at the time, could not have known where the greatcoats came from. After receiving the greatcoats the accused started to go down the stairs to find an empty bed on the first floor. On the way down he was stopped by certain people who the court have already seen. I submit gentlemen that there is no proof before the court that the accused stole the greatcoats nor is there any proof that the accused was leaving the building with the said greatcoats. Therefore, I would ask you gentlemen, with such evidence, the charges against Pte Quinn be dismissed.

PROSECUTING OFFICER — TO THE COURT:- Mr. President and members of the Court:

From the evidence produced we have the following facts:- The accused did not live in the Bordon Block. He was found coming down the stairs, from the second floor, with two greatcoats, identified previously in one case and closely enough in the second case and there is no doubt that it was the greatcoats belonging to the two people, whom he did not know. The statement made by the accused about taking a greatcoat to a friend in the latrine, on a night which was too warm to require a greatcoat, would have been possible but oddly enough there were two. A second statement made by the defence to the effect that he could come and get it himself, referring to some other soldier. The accused was found leaving the Bordon building, to which he did not belong, and with two greatcoats which did not belong to him, and without the consent of the owners. The purpose for which they were intended to be put, is not known. But in view of the facts and evidence produced I respectfully submit that the accused be found guilty on the second and fourth charges, and be patently guilty on the third and fifth.

DEFENDING OFFICER'S STATEMENT AS TO CHARACTER

Mr. President and Members of the Court:-

The best character reference I can offer and which I feel must be offered on behalf of the accused, is in civilian life. During 1927 to 1934 the accused was employed in the Provincial Bank, and from 1934 to 1942 he was employed as Purchasing Agent of the New Brunswick Power Company, which is a very responsible job. In his whole civilian life no crime ever tinged his record whatsoever. That is my character statement.

EXHIBIT P2 - Returned to M1454 PTE FELLOWS, R.E.
DESCRIPTION — Canadian Army Greatcoat, with Loyal Edmonton Flashes, 1st Divisional Patches, top right button missing, pair of gloves in the pocket, small quantity of sugar in the pocket, one metal belt tab. The number M1454 was pencilled on the lining of the left hand pocket.

EXHIBIT P2 - Returned to B73788 PTE CART, S.
DESCRIPTION — One greatcoat, American manufacture, with bone buttons, no special means of identification.

THESE EXHIBITS WERE RETURNED TO THEIR OWNERS BECAUSE THEY WERE PROCEEDING ON DRAFT.

"A.F. CANNON" Major

P1 "AFC"

SUMMARY OF EVIDENCE

In the case of C.24039, Private John Clement QUINN, No. 2 Canadian Non Effective Transit Depot, 1 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas.

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

FIRST WITNESS For the PROSECUTION

A.106046 Cpl. Wells, H.K. having been duly sworn, stated:-

"I am A.106046 Cpl. Wells, H.K., employed as clerk in the Legal Office, No.2 Cdn. N.E.T.D. and as such, I have custody of Regtl. documents. I present a certified true copy of an extract of "X" list N.C.O.A.M.C. Part II Order No.87 dated 2 Mar 45 (Appended hereto as Exhibit "A") pertaining to C.24039 Pte. Quinn, J.C."

H.K. Wells

(H. K. Wells)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

SECOND WITNESS For the PROSECUTION.

D.S 197 RQMS Dawson, F.R., having been duly sworn, stated:-

"I am D.S2197 RQMS Dawson, F.R., No.2 Cdn. N.E.T.D. MOG i/c Borden Billets,. At approximately 1900 hrs 28 Mar 45,in company with Sgt. Ironsides, I was standing at the main entrance to Borden Billets speaking to the piquet when the accused, whom I now recognize, came down the stairs with what I thought at the time, to be one greatcoat over his arm. The piquet stopped the accused in my presence and asked him where he was going with the greatcoat, since it was a warm night. No satisfactory answer being given, he was ordered to return upstairs with the greatcoat and on my orders, the piquet accompanied him. At this time a second greatcoat fell from inside the first and my suspicions being aroused, I ordered the accused to be placed in custody. The greatcoats were this one with Legal Detention Hosp. flashes and the No. M.1454 on the pocket (greatcoat produced and marked Exhibit "B") also this greatcoat, an American style new pattern greatcoat, size 8, (greatcoat produced and marked Exhibit "C"). On the morning of the 29th Mar 45 it was reported to me by M.1454 Pte. Fellows, R.C. and D.70798 Pte. Carp, S. that their greatcoats were missing from their respective kits. Then I instructed Pte. Fellows and Carp to proceed to the Guard Room where the greatcoats, which the accused had been carrying, were being held. After ordering the accused into custody, I checked and found that he (the accused) was not among those quartered in Borden Billets. That is all I know of the matter.". F.R. Dawson

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

SECOND WITNESS
For the
PROSECUTION

D.81048 Sgt. Ironside, G.A., having been duly sworn, states:-

"I am D.81048 Sgt. Ironside, G.A., X-4 Can. List, No. 2 Cdn. N.P.T.D., employed as Sergeant Clerk. At approximately 1900 hrs 28 Mar 45, I was speaking to the piquet at the main entrance to Borden Billets in company with RQMS Dawson, R.E. The accused, whom I now recognize, came down the stairs with what I thought, at the time, was one greatcoat over his arm. One of the piquets, Pte. Harding, stopped the accused and asked him what he was doing with a greatcoat since it was a warm night. No satisfactory explanation being given, the accused was ordered upstairs and was followed by Pte. Harding and myself. The accused laid the greatcoat on the railing and commenced running down the stairs and it was then he, the accused, was placed in custody. In the meantime I had picked up the greatcoat when a second greatcoat fell out of the folds. One greatcoat had Royal Mountain Regt. Flashes on the shoulder and 1 Cdn. Div. patches (Exhibit "G" identified by the witness); the other greatcoat was a new type of coat with non-metal buttons but no markings, but with some article of clothing in one of the pockets. It was a greatcoat very similar to that one (Exhibit "C" produced), but I cannot say whether it was that one or not. I then proceeded on my way and know nothing more of the matter."

(G.A.Ironside)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

THIRD WITNESS
For the
PROSECUTION.

D.139018 Pte. Harding, R.J., having been duly sworn, states:-

"I am D.139018 Pte. Harding, R.J. X-List No. 2 Cdn. N.P.T.D. At about 1845 hrs 28 Mar 45 I was on duty as piquet. At the foot of the stairs at the main entrance to Borden Billet, when the accused, whom I now recognize, came down the stairs with a greatcoat under his arm. Acting upon instructions, I stopped the accused and asked him where he was going. The accused replied that he was going to the latrine. Either Sgt. Ironside or RQMS Dawson, who had been previously speaking to myself and another piquet, then ordered the accused upstairs and me to follow. The accused dropped his greatcoat, which Sgt. Ironside picked up, and it was then that I saw that there were two greatcoats. One greatcoat had Royal Mountain Regt. Flashes and 1 Cdn. Div. patches similar to that one (Exhibit "G" produced) and the other one was just like that (Exhibit "C" produced). The accused then started down the stairs and it was then that RQMS Dawson ordered him, the accused, into custody when he was escorted to the guard room by myself and the other piquet. That is all I know of the matter.

(R. J. Harding)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

FIFTH WITNESS
For the
PROSECUTION.

R.75788 Pte. Carp, S. having been duly sworn, states:-

"I am R.75788 Pte. Carp, S. X-6 List No.2 Cdn. N.R.T.D., quartered in Borden Billets. On the 19th of Mar 45 at about 0650 hrs I noticed that my greatcoat, which I had previously been using as a pillow under my blankets, was missing. I reported the loss to the Guard Commander and to R/S Dawson. My coat, which I described to R/S Dawson, was a new American pattern, size 8, and which has not since been returned to me. It was a greatcoat exactly the same as that (Exhibit "C" produced) but I cannot say that that is the one or not. I do not recognize the accused nor do I know anything more of the matter."

S Carp
(S. Carp)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

SIXTH WITNESS
For the
PROSECUTION

M.1454 Pte. Fellows, M.E., having been duly sworn, states:-

"I am M.1454 Pte. Fellows, M.E. X-6 list No.2 Cdn. N.R.T.D. quartered in Borden Billets. On or about 20 Mar 45 I returned to my quarters at about 2100 hrs when I found my kit had been tampered with and my greatcoat missing. I immediately reported the matter to the piquet at the foot of the stairway. On the morning of 21 Mar 45 I reported the loss to R/S Dawson, at the same time describing the greatcoat as having Loyal Edmonton Regt. flashes on it together with my number on the pocket inside which could be seen when the pocket is lifted. That is my greatcoat (Exhibit "F" produced and identified by the witness). I then went to the guard room where I learned that a greatcoat answering to my description was in possession of the guard but I have not seen my greatcoat since until today. I do not recognize the accused and that is all I know of the matter.

M E Fellows
(M. E. Fellows)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

QUESTION TO THE ACCUSED.- "Do you wish to make a statement or give evidence on oath? You are not obliged to make a statement or give evidence on oath, but if you do make a statement or give evidence on oath, it will be taken down in writing and may be brought up in evidence."

THE ACCUSED DECLINES TO MAKE A STATEMENT AND CONCLUDES HIS DEFENCE.

I certify that the foregoing Summary of Evidence, consisting of three (3) pages, was taken in the presence and hearing of the accused and that R.P.(4)(c),(d),(e) and (f) have been complied with.

D. H. Michael
(D. H. Michael) Lieut.
Officer detailed to take
Summary of Evidence.

In the Field.
2 Apr. 45

PART II ORDER EXTRACT FORM

99/20/

TO: Officer Commanding
2 Cdn NETD
Cdn Army CMF

29 March 1945

EXTRACTS FROM: Unit X List THE ROYAL CANADIAN ARMY MEDICAL CORPS

Part II Order No. 27 dated 9 March 45

ABSENT WITHOUT LEAVE
AWL from 2230 hrs 6 Mar 45; Still absent 2200 hrs 7 Mar 45.
G-24039 Pte Quinn,C.J.€. (3 Gen BH) (1st day)

THIS IS EXHIBIT "A" REFERRED TO BY ME IN THE CASE OF G-24039 Pte Quinn,C.J.€.

"D.M. NICOL"
(D.M. NICOL) Capt Officer detailed to take Summary of Evidence.

CERTIFIED TRUE COPY

DATE OF CERTIFICATION 29 March 1945.

"JED SWORD"
(JED SWORD) Captain
Officer having custody of the original
Det Cdn Section 2nd Echelon - AFHQ

Originating Clerk's Initials

for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

EOE—6
40-P & S-1276 (44021)

"AFC" PH

ARMY FORM B.296 (W.42)

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).
G-24038	Pte	John Clement QUINN	# 2 Can N.ETD.

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, preference 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 regarding. 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 A.A. Sec 15(1) ..... 3 ..... times.

For A.A. Sec. 40 ..... 5 ..... times.

For A.A. Sec 10(4) ..... 1 ..... times.

For .... times.

Date of first entry in Field Conduct Sheet 23 Nov 1943

Date of last entry in Field Conduct Sheet 10 Feb 1945

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

*3. ~~The accused has not been reported "AWOL" or "deserter" or "GWA".~~ XXXXXXXXXX

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 6 days in military custody, i.e., nil days in open arrest, 6 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 5

~~attestation~~ ~~enlisting~~ ~~up for military service~~ 31.7.42

7. ~~The accused has not been reported "AWOL" or "deserter" or "GWA".~~

Name the military decorations (if any) held by accused.

8. The accused is in possession of † CVSM & CLASP

~~The accused has not been reported "AWOL" or "deserter" or "GWA".~~

Date of Promotion.

~~The accused has not been reported "AWOL" or "deserter" or "GWA".~~

~~The accused has not been reported "AWOL" or "deserter" or "GWA".~~

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

Wt. 13479/1857 M.500 5/44 Gp.4/21 T.Ltd. Forms/B.296/W.42/2

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
F.G.C.M.	Field 4 Aug 44	AA Sec 15(1) AWL from 2230 hrs 6 Jul 44 to 1630 hrs 24 Jul 44. (Absent: 17 days, 18 hrs). "GWA"	6 Months Detention	Remission earned 63 days.

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 4th day of April 45

"GEO W. AKEHURST" Capt & Adjt
(G.W. AKEHURST) Officer i/c
Regtl Books & Records, 2 Cdn NETD

P5 "AFC"

NoG-24039 Name QUINN, J.C. Sqn, Battery, or Company | Corps RCAMC | Date of enlistment 31.7.42 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122)

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	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AA Sec 40		5 dys FP 5 dys pay	23 Nov 43	OC 1 MAC	
Field		Pte		AA 40 2 offences: 1 Off AA 10(4)	28 dys FP	28 dys pay (4 dys remission)	16 Feb 44	OC 1 MAC	
Field		Pte		AA Sec 40		Forf 28 dys pay	11 Apr 44	OC 1 MAC	
Field		Pte		AA Sec 40		14 dys CB			
Field		Pte		AA 15(1) AWL (2 charges)		Forf 14 dys pay	19 Apr 44	OC 5 CCS	
Field						Forf 15 dys pay	23Jun44	X-3 List	Total forf 17 days.
Field		Pte		AA 15(1) AWL from 2230 hrs 6 Jul 44 to 1630 hrs 24 Jul 44 (Absent 17 dys 18 hrs)		6 mos detn (Remission earned 63 dys)	4 Aug 44	FGCM	Total forf 213 dys pay

(F729)

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		Pte		AA Sec 15(1) AWL		14 dys Detn	10Feb45	OC 3 Bn	Total forf of 19 dys pay

"CERTIFIED TO BE A TRUE COPY FROM THE REGTL BOOKS IN MY CUSTODY"
2 April 1945.

"GEO W. AKEHURST" Capt & Adjt
(G.W. AKEHURST)
Officer i/c Regtl Books & Records.
2 Cdn N.E.T.D.

"AFC"

PLEA OF MITIGATION IN THE CASE OF G-24039 Pte QUINN, J.C.

Mr. President and Members of the Court:- Before sentence is passed on this man I feel that there are several points regarding the record of service of the accused and certain circumstances which occasioned the offecne which should be brought to the attention of the Court.

The accused enlisted in July, 1942, and in April of the following year proceeded to the U.K. In October of 1943 the accused came to this theatre as a member of #1 Motor Ambulance Convoy. There are on Pte. Quinn's M.F.M. 6 a number of small charges under Sec. 40 of the Army Act. All of these were occasioned by over-indulgence of alcoholic drinks. This drinking is in turn caused by a peculiar neurosis which definitely affects this man. Even in civilian life the accused has a psychiatric record of treatment at a mental hospital. However, the only serious misdemeanour since Quinn's arrival in this theatre is an A.W.L. charge which occurred last July. That absence, I believe, shows the instability of the accused, for he experienced great difficulty in re-adjusting himself after hospitalization. In part too, it was caused by the fact that the accused had not had leave all the time he had been in the C.M.F. The present absence was occasioned because once more the accused had had no leave. This reason combined with excessive drinking led to the offence.

At this point I would like to stress the psychiatric instability of the accused. All of the offences which Pte Quinn has committed are in some way connected with an excessive consumption of alcohol and this in turn is definitely a part of the neurotic condition of the man. I would ask the Court to put in a recommendation that the accused be given a psychiatric examination at the earliest possible time so that we can save, rather than ruin a person whose mental health is failing.

"S.G. MULLINS" Lieut
(S.G. MULLINS) Lieut
Officer Defending

4

SCHEDULE.

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

Accused: G24039 Pte John Clement QUINN 2 Cdn NETO

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	Not guilty	Not guilty	
3rd Alternative	Not guilty	Guilty	
4th	Not guilty	Not guilty	
5th Alternative	Not guilty	Guilty	
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 as to loss of kit see RP 44 fn 6.)

At present undergoing sentence for ..... beginning on (date) ..... (1) n k

(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 6 days, of which Nil days were spent in hospital.(1) n k

(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 one year A/C

(Sgd) ..... Judge-Advocate, if any. 9 Apr 1945 Date awarded. (Sgd) A F Cannon 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 ..... (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 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 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding: & the award in the first and fifth charges: I do not confirm the finding on the third charge. I confirm the sentence.

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

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

Date 9/Apr/45 (Sgd) H Edmond Bergeron Brigadier Commanding D.T.C. 1st Canadian Army Confirming Officer.

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

Accused.	Date.	Signature of Offr.
G24039 Pte QUINN J.C 2 Cdn NETO	11 APR 45	H Bergeron Brig cc No 2 Cdn NETO

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 Vol. Dec. 99 5J-20

(PASS [To Dept. of APAT] 40-P.S.-6-1608 (2804))

RECEIVED 27 APR 1945 JAG

FIELD GENERAL COURT-MARTIAL

Convened by Order of Col S.A. LEE Comd ICBAGP dated 3 APR 45

ACCUSED.

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

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
G24039	PTE	John Clement	QUINN	2 Cdn NETO

PROCEEDINGS REVIEWED JAG BRANCH

REVIEWING OFFICER

PROCEEDINGS OF TRIAL.

Held in the FIELD (Country) ITALY on (date(s)) 4 APR 1945

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 INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn 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, CF A95, 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, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) A JC 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.(3) A JC

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

A3. The Court is opened. The accused is (are) brought before the Court. At 1335 hours trial commences. A JC

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

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

A5. President to accused: Do you object to ..... as interpreter? Ans ..... A JC

The Interpreter is sworn.(1) Do you object to H 36757 Sgt Bond H. W as shorthand writer? Ans. NIL A JC 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? A JC

Ans NIL (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, 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	AF CANNON	12 Cdn Fd Regt RCA
Member	CAPT	J.L. WALLACE	2 Cdn NETO A JC
Member	Capt	W.J.M. MOGAN	HQ ICBAGP A JC
Judge-Advocate			A JC
Prosecutor	LIEUT	D.M. NICHOLS	2 Cdn NETO A JC
Defending Offr	LIEUT	S.G. MULLIN	2 Cdn NETO A JC

Questions by President: Is the Prosecutor a lawyer? Ans. NIL Is the Defending Offr a lawyer? Ans. NIL (1) A JC

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros 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 ..... before arraignment make(s) (no) (no) plea. A JC (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 36, 35(A), 113), 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 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 fns to RsP cited. Insert in AB receiving 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 (do) A JC 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 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

0-6

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 55(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

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

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

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

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

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

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

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; 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 Pros 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.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on the first charge(s). ~~The accused is (are) so informed, and he (they) change(s) his (their) plea(s) as to~~ Part 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 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 P1, 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 paras 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 C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate 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.(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)
(1. *RP 39(B), 80(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 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. No. Do you intend to call witnesses on your behalf? Ans. No. Are they witnesses as to character only? Ans.
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ~~first~~ 3rd and 5th 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. *RP 54(3) (6), 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 (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(3) (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 P4 and Ex P5 respectively.(3)
(1. *MFB 355 or MFB 296.* 2. *MFM 6.* 3. *RP 46, 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 through my defending officer.(2)
(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)
(1. *AA 54(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 7(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 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, 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), 96(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. 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.

CHARGE SHEET

The accused, G.24039, Private John Clement QUINN, No. 2 Canadian Non Effective Transit Depot, 1 Canadian Base Reinforcement Group, 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 Italy, at approx 2200 hrs 6 Mar 45 absented himself without leave until about 1845 hrs 28 Mar 45.
(Total Absence: 21 days, 20 hrs, 45 mins).

SECOND CHARGE
Sec 18 (4)
Army Act

WHEN ON ACTIVE SERVICE, STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

in that he,

in the field in Italy, on or about 28 Mar 45, did steal a greatcoat the property of B.73788 Pte CARP, S., a person subject to Military Law.

THIRD CHARGE
Sec 40
Army Act
(Alternative)

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

in that he,

in the field in Italy, at about 1900 hrs 28 Mar 45 was improperly in possession of a greatcoat, the same being public property.

FOURTH CHARGE
Sec 18 (4)
Army Act

WHEN ON ACTIVE SERVICE, STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

in that he,

in the field in Italy, on or about 28 Mar 45, did steal a greatcoat the property of M.1454 Pte FELLOWS, R.E., a person subject to Military Law.

FIFTH CHARGE
Sec 40
Army Act
(Alternative)

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

in that he,

in the field in Italy, at about 1900 hrs 28 Mar 45 was improperly in possession of a greatcoat, the property of M.1454 Pte FELLOWS, R.E.

Signed on behalf of the JAG
Edmonton Area Office pursuant to
K.R.Ca.540 dated 20 Apr 45
[illegible]
[illegible]
HQ 1 Cdn Base Rft Gp
Italy
3 Apr 45

In the Field
2 April 45

D.J.Burgoyne
(D.J.Burgoyne) Major
Commanding Officer
No 2 Cdn N.E.T.D.
1 Cdn Base Rft Group

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
In Italy
3 Apr 45

S.A. Lee
(S.A. Lee) Colonel
Comd 1 Cdn Base Rft Gp

a/c

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate 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, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G.24039	Pte.	John Clement	QUINN	2 Cdn NETD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~s~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet~~s~~ attached and on (date) 3 Apr 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(E), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	A.F.	CANNON (Must be named. RP 106.)	(CIC)	12 Cdn Town Major (Unit.)

MEMBERS.

Capt	J.L.	WALLACE	(RCA)	2 Cdn NETD
Capt (Rank.)	W.J.M.	MOGAN (Named or detailed. RP 106.)	(CAC)	HQ 1 CBRGp (Unit.)

WAITING MEMBER.

Capt or Lieut to be detailed by OC 2 Cdn NETD.
(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 Italy (Country.)

(Signed personally. RP 105 fn 2.)
(S.A. Lee)
Colonel (Rank.)

Date 3 Apr 45

Commanding 1 Cdn Base Rft Group
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (CFAO 12 (1st Issue of AFAS) 10/1/45 to 31/12/47 14611)

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

AFC.

MEDICAL OFFICER'S CERTIFICATE

I hereby certify that I have this day examined

No G.2.4.0.3.9.. Rank ...PTE.... Name ..QUINN G.J..

and in my opinion is fit to undergo trial by Court Martial.

Date ...4.APR.45.....

.....
Medical Officer

FIRST WITNESS: D62197 BQMS DAWSON, F.E. i/c Berden Barracks being duly sworn states

QUESTIONS BY THE PROSECUTING OFFICER

Q. Do you recognize the accused in this Court?
A. Yes, I do.

Q. Will you describe the circumstances surrounding the placing of the accused under custody?
A. I was standing talking to the picquet on the Berden Barracks, with Sgt Ironside, when the accused came down the stairs carrying what I thought was one greatcoat. The picquet questioned him to the effect that it was too warm a night to go out with a greatcoat and then asked him to take it back up-stairs. I then told the picquet to go up-stairs with him. On the way up-stairs, in full view of me one greatcoat fell from the outside. I then noticed that he had two. The picquet told him to go down-stairs again. I looked at both greatcoats and immediately had the man placed under arrest. After placing him under arrest I checked, through my office, and found the man did not belong to Berden Barracks. That is all I know about the case.

Q. Was the loss of greatcoats of any personnel reported to you?
A. Yes, there was.

Q. Who?
A. By one Pte. Carr and one Pte. Fellows at 0900 hours the following morning.

Q. Can you describe these greatcoats?
A. Yes Sir, I can describe one as having Loyal Edmonton Flashes on both shoulders and having a man's number inside on the pocket, I believe on the right hand pocket.

Q. Is this the greatcoat?
A. Yes Sir.

QUESTIONS BY THE COURT

Q. How do you identify the greatcoat?
A. By the Loyal Edmonton patch on the shoulder.

PROSECUTION

Q. Is that the same number that you saw at the time you had the accused placed under custody. (Exhibit P2 - one overcoat)
A. Yes Sir.

Q. And the other greatcoat?
A. The other greatcoat was an American one and had no markings or distinguishing flashes on it except that it was new and size 8.

Q. Can you say if this is the greatcoat? (Exhibit P3 - one greatcoat)
A. To the best of my knowledge, yes Sir.

Cross-Examined:-

Q. Where did you see the accused in the Berden Barracks?
A. I seen him going down the stairs, Sir, as I was passing that way.

No Re-Examination.

Witness withdrew. Exhibit P 2 & 3 (A)

OK

SECOND WITNESS D81848SGT. IRONSIDE? G.A., X-4 List Gen List, employed as clerk in the orderly room of X-8, at the time. (duly sworn states:

Q. Do you recognize the accused in this Court?
A. Yes, Sir.

Q. Will you tell the court what you know about accused and what occurred on the night of the 28 March, 1945?

A. At approximately 1900 hours on the 28 March 1945 I was proceeding out of camp, accompanied by S/Sgt Dawson. I stopped to converse with the guard on duty at the bottom of the Stairs, leading out Borden Barracks. It was at this time that I saw the accused carrying down the stairs what I thought was one greatcoat. The guard, on my instructions stopped him and enquired where he was going to take greatcoat, and the reply was that he was taking it to his friend in the latrine. There being no reasonable answer, he was ordered to take the greatcoat back up-stairs. His action seemed somewhat hesitant so on suspicion I then, with the guard, decided to accompany the accused up-stairs. On the half-way landing the accused laid the greatcoat on the floor - saying he can come and get it himself. He then started to run downthe stairs and the guard at the bottom of the stairs, on my warning, stopped him. CQMS Dawson ordered the accused to bring the greatcoat, which I thought at the time was only one, to him. On bringing up this greatcoat another fell outside from the first. It was then that CQMS Dawson ordered the accused into custody. Picking up both greatcoats, for means of future identification, I looked at one of them which had the Loyal Edmonton Flashes, and the First Divisional Patch on the shoulders and sleeves. In one pocket was a small quantity of sugar. The other greatcoat was a new greatcoat of a very recent pattern, with non-metal bottons. The other had no other means of identification. That is all I know.

Q. Can you identify the two greatcoats?
A. I can identify that as the greatcoat I took up from the accused. This greatcoat looks very much like the one which dropped out but cannot say that it is the same one.

Cross-Examined:-

Q. Sgt. Ironside, can you say that the accused had been drinking that night?
A. I could not say that he had been drinking, but he was under the influence of alcohol.

No Re-Examination

QUESTION BY THE COURT

Q. You quoted the accused as saying when the accused left the greatcoat on the floor - he can come and get it himself?

A. Yes, Sir.

Q. Do you know from the conversation who he referred to?
A. No, Sir.

(Summary to comply with R. P. 73(4))

THIRD WITNESS: B137G1 PTE. HARDING? H.J. L-8 List, No. 2 NETD, Can Army - CMF (duly sworn states:

Q. Can you recognize the accused person in this Court. Point him out?
A. Yes, there he is.

Q. Will you tell the Court what you knew concerning the accused, which occurred the night of 28 Mar 45?

A. At approximately 1845 hours on the 28 Mar 45 the accused came with the greatcoat under his arms. I stopped him and asked him where he was going with the greatcoat, he said he was taking it to a friend in the latrine. He was told to take the greatcoat back up-stairs. While I, Sgt. Ironside and the accused were going up-stairs, he dropped the greatcoat on the floor.

A.(Cont'd)

Sgt. Ironside picked up two greatcoats, it was the first time I saw two greatcoates. S/Sgt. Dawson ordered him me to take him over to the guard room, that's all.

Q. What was your duty at this time?
A. Night picquet on the Borden Block.

Q. Stationed where?
A. At the bottom of the staires.

Q. Can you describe these greatcoats?
A. One of them had 49 Edmonton flashes on. The first one looked like a Canadian greatcoat and the red patches on the other was a Yank made greatcoat and the only way I can identify it is that it had dust on it.

Q. Is that the greatcoat?
A. Yes, this is it.

The prosecuting Officer shews the witness the greatcoat. (ExhibitP2)
The prosecuting Officer shews the witness the greatcoat. (Exhibit P3)

Q. Is this the same greatcoats?
A. Yes, Sir.

QUESTIONS BY THE COURT

Q. The second greatcoat you were shown, by what means can you identify it?
A. It was a Yank greatcoat and had dust on it.

Q. Did you check to see if the accused had a friend in the latrine?
A. No Sir.

Q. Did you see anyone else checking?
A. No Sir.

Q. Would the accused normerly go down these stairs to the latrine?
A. Yes, he would Sir, if he was going to the latrine.

QUESTIONS BY DEFENDING OFFICER

Q. Was it cold enough on the night of the 28 Mar 1946 to wear a greatcoat?
A. No, it was not cold enough.

No Re-Examination without necessity of complying with R.P.83(4)

FOURTH WITNESS: B73788 PTE. CARP, S. - 18 Spec Employment Coy. - quartered in Borden Block being orderly runner stab,

Q. Have you recently lost a greatcoat?
A. Yes Sir, the first time I missed it was on the 29 Mar 1946, at approximately 0620 hours.

Q. To whom did you report the loss?
A. First to the Guard Room and then to our A-8 Orderly Room to S/Sgt. Dawson.

Q. Has this coat since been returned to you?
A. No Sir.

Q. Will you describe this greatcoat?
A. It is an American greatcoat, size 8.

The prosecuting Officer shews the witness the greatcoat (Exhibit P3)

Q. Is this your greatcoat?
A. Yes Sir.

Q. Do you recognize the accused in this Court?
A. No Sir.

QUESTIONS BY THE COURT

Q. You have been using that greatcoat as a pillow at nights, is that right?
A. Yes Sir.

Q. Did you use it as a pillow on the 28 Mar 1945?
A. I did not miss it until the morning.

Q. Did you know before you reported your loss that a greatcoat or greatcoats had been found?

A. No Sir.

No Cross-Examination

FIFTH WITNESS: M1484 PTE. FELLOWS, R.E. - Loyal Edmonton Regt, now on X-8 List. quartered in Borden Block, on third floor. (being duty Sunday Staff);

Q. Have you recently been short a greatcoat?
A. Yes, Sir.

Q. When?
A. On or about the 28 Mar 1945, between 5.00 and 9.00 in the evening.

Q. Did you report the loss to anyone?
A. I reported the loss to the picquet on the floor immediately I noticed it was gone. I also report it to the Orderly Room, to S/Sgt. Dawson.

Q. How did you describe the greatcoat to S/Sgt Dawson?
A. I told him it was an Canadian greatcoat with Loyal Edmonton Flashes on. There was one botton missing from the greatcoat and there was a buckle missing from the back of the web belt, which was in one of the pockets. There was some sugar wrapped up in paper, and also one pair of gloves.

The Prosecuting Officer shows Exhibit P2 to the witness.

Q. Is this your greatcoat?
A. Yes, the button is missing, there is the Loyal Edmonton Flashes, the sugar is in the pocket, and there is the buckel from the web belt.

Q. Have you since had your greatcoat returned to you?
A. No Sir.

Q. If you recognize the accused in this Court, will you point him out.
A. Yes, that is him there.

Q. Did you know the accused prior to events which developed from the loss of your greatcoat?
A. No Sir.

DEFENDING OFFICER: TO THE COURT:- Mr. President and members of the Court:
My purpose is to give you a brief outline of the events which occurred on the night of the 28 Mar 1945. The accuses, Pte. Quinn, returned from an absence without leave. He reported to his original barracks, Cliffside Canadian Barracks, and found that it was 2 BETD. During the evening the accused had been drinking considerably, reasons for that I shall present later. However, the accused had been drinking. His His intention was to report on the morning of the 29 Mar 1945 instead of the evening of the 28 Mar 1945. He went into Borden Block and on the second floor he met another soldier, and he asked him if he would be able to get him two blankets for a bed. This occurred on the landing of the second floor, not actually in the billeting quarters on the second floor. The soldier told him it was possible and went into the billeting quarters and returned with two greatcoats which he said were in lieu of two blankets. Unfortunately the accused, being new to these quarters, did not know the soldier's name, nor could he recognize him if he saw him again. You will note gentlemen that the statement the accused made when he said, He could come and get it himself, was not referring to anyone in the top floor, or any person in the basement, but to a person (Cont'd

a 72

TO THE COURT (Cont'd)

on the second floor of the building. The accused, at the time, would have not knew where the greatcoats came from. After receiving the greatcoats the accused started to go down the stairs to find an empty bed on the first floor. On the way down he was stopped by certain people who the court have already seen. I submit gentlemen that there is no proof before the court that the accused stole the greatcoats nor is there any proof that the accused was leaving the building with the said greatcoats. Therefore, I would ask you gentlemen, with such evidence, the charges against Pte. Quinn, be dismissed.

PROSECUTING OFFICER

TO THE COURT:- Mr. President and members of the Court:

From the evidence produced we have the following facts:- The accused did not live in the Borden Block. He was found coming down the Stairs, from the second floor, with two greatcoats, identified previously in one case and closely enough in the second case and there is no doubt that it was the greatcoats belonging to two people, whom he didn't know. The statement made by the accused about taking a greatcoat to a friend in the latrine, on a night which was too warm to require a greatcoat, would have been possible, but sadly enough, there were two. A second statement made by the defence to the effect that he could come and get it himself, referring to some other soldier. The accused was found leave the Borden Building, to which he did not belong, and with two greatcoats which did not belong to him, and without the consent of the owners. The purpose to which they were intended to be put, is not known. But in view of the facts and evidence produced I respectfully submit that the accused be found guilty on the second and fourth charges, and be patently guilty on the third and fifth.

DEFENDING OFFICER'S STATEMENT AS TO CHARACTER

Mr. President and members of the Court:-
The best character reference I can offer and which I feel must be offered on behalf of the accused, is in civilian life. During 1927 to 1934 the accused was employed in the Provincial Bank, and from 1934 to 1942 he was employed as Purchasing Agent of the New Brunswick Power Company, which is a very responsible job. In his whole civilian life no crime ever tinged his record whatsoever. That is my character statement.

RETURNED

EXHIBIT P2 - ~~Pertaining~~ to M1454 PTE. FELLOWS, R.E.

DESCRIPTION: - Canadian Army Greatcoat, with Loyal Edmonton Flashes, 1st Division flashes, top right button missing, pair of gloves in the pocket, small quantity of sugar in the pocket, one metal belt tab. The number M1454 was pencilled on the lining of left hand pocket.

RETURNED

EXHIBIT P3 - ~~Pertaining~~ to B73788 PTE. CART, S.

DESCRIPTION: - One Greatcoat, American manufacture, with bone buttons, no special means of identification.

THESE EXHIBITS WERE RETURNED TO THEIR OWNERS BECAUSE THEY WERE PROCEEDING ON DRAFT.

E J Lamb
Maj

PLEA OF MITIGATION IN THE CASE OF G - 24039, PTE QUINN, J.C. a7c

Mr. President and Members of the Court: Before sentence is passed on this man I feel that there are several points regarding the record of service of the accused and certain circumstances which occasioned the offence which should be brought to the attention of the Court.

The accused enlisted in July, 1942, and in April of the following year proceeded to the U.K. In October of 1943, the accused came to this theatre as a member of #1 Motor Ambulance Convoy. There are on Pte. Quinn's N.F.M. 6 a number of small charges under Sec. 40 of the Army Act. All of these were occasioned by an over-indulgence in alcoholic drinks. This drinking is in turn caused by a peculiar neurosis which definitely affects this man. Even in civilian life the accused has a psychiatric record of treatment at a mental hospital. However, the only serious misdemeanour since Quinn's arrival in this theatre is an A.W.L. charge which occurred last July. That absence, I believe, shews the instability of the accused, for he experienced great difficulty in re-adjusting himself after hospitalization. In part, too, it was caused by the fact that the accused had not had leave all the time he had been in the C.M.F. The present absence was occasioned because once more the accused had had no leave. This reason combined with excessive drinking led to the offence.

At this point I should like to stress the psychiatric instability of the accused. All of the offences which Pte. Quinn has committed are in some way connected with an excessive consumption of alcohol and this in turn is definitely a part of the neurotic condition of the man. I would ask the court to put in a recommendation that the accused be given a psychiatric examination at the earliest possible time so that we can save rather than ruin a person whose mental health is failing.

S.G. Mullins, Lieut.

S.G. Mullins, Lieut.
Officer Defending.

P1

SUMMARY OF EVIDENCE

In the case of G.24039, Private John Clement QUINN, No. 2 Canadian Non Effective Transit Depot, 1 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas.

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

FIRST WITNESS For the PROSECUTION

A.104046 Cpl. Wells, H.K. having been duly sworn, states:-

"I Am A.104046 Cpl. Wells, H.K., employed as clerk in the Legal Office, No.2 Cdn. N.E.T.D. and as such, I have custody of Regtl. documents. I present a certified true copy of an extract of "X" List R.C.A.M.C. Part II Order No.87 dated 9 Mar 45 (Appended hereto as Exhibit "A") pertaining to G.24039 Pte. Quinn, J.C."

H K Wells
(H. K. Wells)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

SECOND WITNESS For the PROSECUTION.

D.62197 BQMS Dawson, F.R., having been duly sworn, states:-

"I am D.62197 BQMS Dawson, F.R., No.2 Cdn. N.E.T.D. MOO i/c Borden Billets,. At approximately 1900 hrs 28 Mar 45,in company with Sgt. Ironsides, I was standing at the main entrance to Borden Billets speaking to the Piquet when the accused, whom I now recognize, came down the stairs with what I thought at the time, to be one greatcoat over his arm. The picquet stopped the accused in my presence and asked him where he was going with the greatcoat, since it was a warm night. No satisfactory answer being given, he was ordered to return upstairs with the greatcoat and on my orders, the picquet accompanied him. At this time a second greatcoat fell from inside the first and my suspicions being aroused, I ordered the accused to be placed in custody. The greatcoats were this one with Loyal Edmonton Regt. flashes and the No. M.1454 on the pocket (greatcoat produced and Exhibit "B") also this greatcoat, an American style new pattern greatcoat, size 8, (greatcoat produced and marked Exhibit "C"). On the morning of the 29th Mar 45 it was reported to me by M.1454 Pte. Fellows, R.E. and B.75788 Pte. Carp, S. that their greatcoats were missing from their respective kits. Then I instructed Pte. Fellows and Carp to proceed to the Guard Room where the greatcoats, which the accused had been carrying, were being held. After ordering the accused into custody, I checked and found that he (the accused) was not among those quartered in Borden Billets. That is all I know of the matter.". F.R. Dawson

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

THIRD WITNESS
For the
PROSECUTION

D.81848 Sgt. Ironside, G.A., having been duly sworn, states:-

"I am D.81848 Sgt. Ironside, G.A., X-4 Gen. List, No. 2 Cdn. M.E.T.D., employed as Sergeant Clerk. At approximately 1900 hrs 28 Mar 45, I was speaking to the picquet at the main entrance to Borden Billets in company with BQMS Dawson, F.R. The accused, whom I now recognize, came down the stairs with what I thought, at the time, was one greatcoat over his arm. One of the picquets, Pte. Harding, stopped the accused and asked him what he was doing with a greatcoat since it was a warm night. No satisfactory explanation being given, the accused was ordered upstairs and was followed by Pte. Harding and myself. The accused laid the greatcoat on the railing and commenced running down the stairs and it was then he, the accused, was placed in custody. In the meantime I had picked up the greatcoat when a second greatcoat fell out of the first. One greatcoat had Loyal Edmonton Regt. flashes on the shoulder and 1 Cdn. Div. patches (Exhibit "B" identified by the witness); the other greatcoat was a new type of coat with non-metal buttons but no markings, but with some article of clothing in one of the pockets. It was a greatcoat very similar to that one (Exhibit "C" produced), but I cannot say whether it was that one or not. I then proceeded on my way and know nothing more of the matter."

G.A. Ironside
(G.A.Ironside)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

FOURTH WITNESS
For the
PROSECUTION.

R.157018 Pte. Harding, R.J., having been duly sworn, states:-

"I am R.157018 Pte. Harding, R.J. X-List No. 2 Cdn. M.E.T.D. At about 1845 hrs 28 Mar 45 I was on duty as picquet, At the foot of the stairs at the main entrance to Borden Billet, when the accused, whom I now recognize, came down the stairs with a greatcoat under his arm. Acting upon instructions, I stopped the accused and asked him where he was going. The accused replied that he was going to the latrine. Either Sgt. Ironside or BQMS Dawson, who had been previously speaking to myself and another picquet, then ordered the accused upstairs and me to follow. The accused dropped his greatcoat, which Sgt. Ironside picked up, and it was then that I saw that there were two greatcoats. One greatcoat had Loyal Edmonton Regt. flashes and 1 Cdn. Div. patches similar to that one (Exhibit "B" produced) and the other one was just like that (Exhibit "C" produced). The accused then started down the stairs and it was then that BQMS Dawson ordered him, the accused, into custody when he was escorted to the guard room by myself and the other picquet. That is all I know of the matter.

R.J. Harding
(R. J. Harding)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

FIFTH WITNESS
For the
PROSECUTION.

B.73788 Pte. Carp, S. having been duly sworn, states:-

"I am B.73788 Pte. Carp, S. X-8 List No.2 Cdn. N.E.T.D., quartered in Borden Billets. On the 29th of Mar 45 at about 0630 hrs I noticed that my greatcoat, which I had previously been using as a pillow under my blankets, was missing. I reported the loss to the Guard Commander and to BQMS Dawson. My coat, which I described to BQMS Dawson, was a new American pattern, size 8, and which has not since been returned to me. It was a greatcoat exactly the same as that (Exhibit "C" produced) but I cannot say that that is the one or not. I do not recognize the accused nor do I know anything more of the matter."

S. Carp.
(S. Carp)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

SIXTH WITNESS
For the
PROSECUTION

M.1454 Pte. Fellows, R.E., having been duly sworn, states:-

"I am M.1454 Pte. Fellows, R.E. X-8 list No.2 Cdn. N.E.T.D. quartered in Borden Billets. On or about 28 Mar 45 I returned to my quarters at about 2100 hrs when I found my kit had been tampered with and my greatcoat missing. I immediately reported the matter to the picquet at the foot of the stairway. On the morning of 29 Mar 45 I reported the loss to BQMS Dawson, at the same time describing the greatcoat as having Loyal Edmonton Regt. flashes on it together with my number on the pocket inside which could be seen when the pocket is lifted. That is my greatcoat (Exhibit "E" produced and identified by the witness). I then went to the guard room where I learned that a greatcoat answering to my description was in possession of the guard but I have not seen my greatcoat since until today. I do not recognize the accused and that is all I know of the matter.

R.E. Fellows
(R. E. Fellows)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

QUESTION TO THE ACCUSED.- "Do you wish to make a statement or give evidence on oath? You are not obliged to make a statement or give evidence on oath, but if you do make a statement or give evidence on oath, it will be taken down in writing and may be brought up in evidence."

THE ACCUSED DECLINES TO MAKE A STATEMENT AND RESERVES HIS DEFENCE.

I certify that the foregoing Summary of Evidence, consisting of three (3) pages, was taken in the presence and hearing of the accused and that R.P.(4)(c),(d),(e) and (f) have been complied with.

D.M. Michol
(D. M. Michol) Lieut.
Officer detailed to take
Summary of Evidence.

In the Field.
2 Apr. 45

pl a24

PART II ORDER EXTRACT FORM

TO: Officer Commanding,
2 Cdn NETD,
Cdn Army CMF

99/20/

29 March 19 45

EXTRACTS FROM: Unit X List Royal Canadian Army Medical Corps

Part II Order No. 27 dated 9 March 45

ABSENT WITHOUT LEAVE

AWL from 2200 hrs 6 Mar45; Still absent 2200 hrs 7 Mar 45.

G.24039 Pte Quinn C.J. (3 Gen Bn) (1st day)

THIS IS EXHIBIT "A" REFERRED TO BY ME IN THE
CASE OF G.24039 PTE. QUINN, C.J.

(D. M. Nichol) Capt. Officer detailed to take Summary of Evidence.

Certified true copy

Date of Certification 29 March 45

(W E D Sword) S/Captain
Officer having custody of the original
Det Cdn Section, 2nd Echelon - AFHQ

Originating Clerk's Initials .....

..... for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

ECH—6
40/P & S/1256 (4032)

CERTIFICATE OF REVISING OFFICER

(Section 30)

I, _____, the Revising Officer duly appointed under The Voters' Lists Act for the purpose of revising the Voters' List to be used at the election now pending for the Electoral District of _____, do hereby certify that _____, a voter entered on the Voters' List and having the right to vote at the pending election in the Municipality of _____ in the Electoral District of _____, duly appeared before me at my sittings for the revision of the List for the Municipality of _____, and that upon the evidence there tendered by him (or on his behalf) I find that _____ named in this appointment as an Extra-Provincial Active Service Voter, is duly qualified to vote at the said pending election, and that the said _____ is a person duly qualified to act as Proxy for the said Extra-Provincial Active Service Voter and to vote on his behalf at the said election.

Dated this _____ day of _____, 19____.

_____

(REVISING OFFICER)

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)
G.24039	PTE	John Clement QUINN,	# 2 Can N.E.T.D.

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, punishments 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 regimental special acts of gallantry or distinction recorded against the accused 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	A.A. Sec. 15(1)	3 times.
For	A.A. Sec. 40	5 times.
For	A.A. Sec. 10(4)	1 times.
For		times.

Date of first entry in Field Conduct Sheet 23 Nov 1943

Date of last entry in Field Conduct Sheet 10 Feb 1945

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

~~3. The accused was present under sentence for xxx days beginning on the xxx~~ Nil

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 6 days in military custody, *i.e.*, Nil days in open arrest, 6 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is

6. The date of his ~~enrolment~~ attestation is 31.7.42.

7. ~~The service which the accused has served to reckon is x~~ Nil

8. The accused is in possession of: CVSM & CLASP.

9. ~~If the accused has any good conduct pay to forfeit, the number of days to be forfeited is xxx~~ The accused has served continuously without reduction to the present date Date of Promotion.

~~For the purpose of xxx~~

~~For the purpose of xxx~~

~~For the purpose of xxx~~

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

(State the military operations (if any) he is engaged.)

~~Strike out if not applicable~~

DFSS. UDF. MT. 4341/44—4,000—11/43/UDF/5

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
F.G.C.M.	Field 4 Aug 44	AA Sec 15(1) AWL from 2230 hrs 6 Jul 44 to 1630 hrs 24 Jul 44. (Absent: 17 dys, 18 hrs).	6 Months Detention.	Remission earned 63 days.

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 4th day of April 45

Geo W Akehurst Capt & Adjt.
(G.W. Akehurst) Officer I/c
Regtl Books & Records, 2 Cdn NETD.

P5
a2C

No. G24039 Name QUINN, C.J. Sqn, Battery, or Company — Corps RCAMC — Date of enlistment 31.7.42. — GC Badge — Service or Proficiency Pay — MFM 6 (AFB 122) 40/PAM/136 (3438)

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	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AA Sec 40		5 days F.P.			
Field		Pte		2 Offences AA 40 1 Off AA 10(4)		5 days pay 28 days F.P.	23 Nov43	OC 1 MAC	
Field		Pte		AA Sec 40		28 days pay (4 days Remission).	16 Feb44	OC 1 MAC	
Field		Pte		AA Sec 40		Forf 28 dys pay 14 dys C.B.	11 Apr44	OC 1 MAC	
Field		Pte		AA 15(1) AWL (2 Charges)		28 dys pay Forf 15 dys pay	19 Apr44 23 Jun44	OC 5 CCS X-3 List	Total forf 17 days.
Field		Pte		AA 15(1) AWL from 2230 hrs 6 Jul 44 to 1630 hrs 24 Jul 44 (Absent: 17 dys, 18 hrs).		6 Months Detn. (Remission earned 63 days).	4 Aug44	FGCM	Total forf 213 days pay.

(PTO)

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		Pte		A.A. Sec 15(1) AWL		14 days Detn.	10 Feb 45.	OC 3 Bn.	Total forf of 19 days pay.

" Certified to be a true copy from the Regtl Books in my Custody.".
2 April 1945.

Geo W. Akehurst. Capt & Adjt.
(G.W. Akehurst)
Officer i/c Regtl Books & Records,
2 Cdn N.E.T.D.

LIST OF WITNESSES.

In the case of G.24039, Private John Clement QUINN, No. 2 Canadian Non Effective Transit Depot, 1 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas:-

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FOR THE PROSECUTION

1. A.104046 Cpl Wells,H.K. -- 2 Cdn N.E.T.D.
2. D.62197 BQMS Dawson,F.R. -- 2 Cdn N.E.T.D.
3. D.81848 Sgt Ironside,G.A. -- X-4 List Gen List 2 Cdn NEETD.
4. B.137018 Pte Harding,R.J. -- X-List 2 Cdn NEETD.
5. B.73788 Pte Carp,S. -- X-8 List 2 Cdn NEETD.
6. M.1454 Pte Fellows,R.E. -- X-8 List 2 Cdn NEETD.

FOR THE DEFENCE

NIL

LIST OF EXHIBITS

1. Exhibit "A" -- Certified true copy of an extract of "X" List R.C.A.M.C. Part II Order No. 27 d/9 Mar 45.
2. Exhibit "B" -- Greatcoat marked Exhibit "B"
3. Exhibit "C" -- Greatcoat,(American Style new pattern greatcoat), marked Exhibit "C"

I, G.24039, Private John Clement QUINN, request that my Commanding Officer appoint Lt. S.L. Mullin to defend me at my forthcoming trial by Field General Court Martial.

DATE 30.4.41 ..... J.C. Quinn (J.C. Quinn).

ACCUSED'S RECEIPT FOR HIS COPY OF SUMMARY OF EVIDENCE AND CHARGE SHEET.

I, G.24 039, Private John Clement QUINN, acknowledge receipt of a copy of Summary of Evidence and Charge Sheet in connection with my forthcoming trial by Field General Court Martial.

DATE 3 Apr. 41 ..... J.C. Quinn .....

5 R 13

Pl. Quinn, J.J

SCHEDULE.

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

Accused: D-131399 Pte John James QUINN - CIC - 2 CITR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 9(2)	NOT GUILTY	NOT GUILTY	
2nd AA Sec 40	NOT GUILTY	GUILTY	
3rd AA Sec 15(1)	GUILTY	GUILTY	
4th AA Sec 15(1)	GUILTY	GUILTY	
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 153, and in lieu 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 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 64 days, of which Nil 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 be put all ordinary Pay for a period of ninety (90) days and to be put under stoppages of Pay until the same is made good 20-10-2 the expenses of his return to England. 4 JUL 45

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

Date awarded.

(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) 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(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 placed before promulgation: RP 33, 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 fn 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.)

(Sgd) A Wilson Col.
(J A Wilson) Col
Temporary Commanding 13 Cdn Inf Trg Bde
Confirming Officer.

Date 6 Jul 45

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

Accused.	Date.	Signature of Offr.
D131399 Pte QUINN JJ	10 Jul 45	Bapseria Lt Lieut 2 CITR

ENTERED ORDER No. 163
DATE 17th July 45
BY [illegible]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

CF ASDE (To Type of Apart) 40/P & R/1698 (H1441) 4/38B

Convened by Order of Brigadier K G Blackader DSO, MC, ED Comd 13 CITB dated 30 Jun 45

15 JUL 1945

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 one, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-131399		John James	QUINN	CIC 2 CITR

PROCEEDINGS REVIEWED
[illegible] Capt
20 Jul 45
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

Held in the Fd in (country) England on (date(s)) 4 JUL 45

PROCEEDINGS OF TRIAL.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Crottoes do NOT include all relevant fmn 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, RP A95, for oaths and instrs on how to record addresses, evidence, etc, which insets are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(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.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 103-107. 3. RP 11-13, 23, 24.)

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

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~
~~The Interpreter is sworn.~~(1) Do you object to [illegible] 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 66(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, ~~J.A. 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	DL REDMAN	HQCRU
Member	CAPT	EJ DUCRESNE	4 CITR
Member	LIEUT	HE TAYLOR	2 CITR
Judge Advocate			
Prosecutor	LIEUT	P SAPPERIA	2 CITR
Defending Offr	LIEUT	HH KREIGER	2 CITR

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans YES (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI 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), 108), or as to the jurisdiction of the Court (RP 34, 35(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 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 fns to RoP cited. Insert in full 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 (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 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B 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 authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 28.) *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 M M L p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of J A 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 86, 87(C), 92(B), and of witnesses see RP 85-85; 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 J A or Pres to record proceedings see RP 94, 96.*

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

B1. The President or J A, 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 STMT.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *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.(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, any such charge(s) by use of paras 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 C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras C1 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.

Fix here Loose Sheets of Record.

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

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

D2. The Prosecutor makes (his) (no) opening address.(1) NOTE AT FWD
(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) NOTE AT FWD
(1. *RP 39(C), 114, KR Can 535.* 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 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 that accused is (are) found Not Guilty on the latter charge(s).(3)
(1. *Delete remainder of this para, if submission not made.* 2. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 3. *RP 40 fn 10.* 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. Will make statement. Do you intend to call witnesses on your behalf? Ans. NO - SIR. Are there witnesses as to character only? Ans. .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF #82.* 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(e).*)

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 2nd 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) (6), 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. CONTINUED ABOVE

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 - SIR.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 6, 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(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 552.* 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. NO ADDRESS. NOTE AT FWD
(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)
(1. *AA 54(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 J A, 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 cover all charges on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Oversea RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(3)(B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. 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.

CHARGE SHEET

The accused, No. D.131399, Pte. John James QUINN, C.I.C., on strength of 2 Cdn. Infantry Training Regt., a soldier of the Cdn. Army Overseas, is charged with:-

FIRST CHARGE
Sec. 9(2) Army Act

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

In the Field, on 24 Apr 45, did not put on his Denim and Webbing and go on parade when ordered to do so by P.13263, Sgt. Adams, C.A.W.

FIRST ALTERNATIVE CHARGE,
Sec 64 Army Act

NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, on 24 Apr 45, neglected to put on his Denim and webbing and go on parade when ordered to do so by P.13263, Sgt. Adams, C.A.W.

SECOND CHARGE
Sec 15(1) Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, at 1800 hrs. 23 Apr 45, illegally absented himself without leave until he answered Tattoo Roll Call at 2215 hrs. 23 Apr 45.

(Total Absence:- 4 hours, 15 minutes)

THIRD CHARGE
Sec 15(1) Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, at 1900 hrs. 6 May 45, while in unit custody illegally absented himself without leave until he was apprehended at London by the Cdn. Provost Corps, at about 1820 hrs. 23 June 45, thereby incurring costs of return to his Regiment in the amount of £0-10-2.

(Total time absent:- 47 days, 23 hrs. 20 min.)

In the Field.
26 June 45.

.....
(J.G. Bourne) Lt-Col.,
A/Comd. 2 C I T R

To be tried by Field General Court Martial.

.....
(K E Blackader) Brig
Comd
13 Cdn Inf Trg Bde

IN THE FIELD
30 Jun 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate 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, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
D-131399	Pte		John James	QUINN	CIC 2 CITR

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 Jun 46 endorsed by me, ~~or by my predecessor in command~~, "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 superior authority~~

(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 officers of the Regular Army, (b) a PMC 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.)

5. ~~I also appoint as Judge Advocate Captain the Officer mentioned hereunder.~~

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

PRESIDENT.

LT COL (Rank.)	D L REDMAN, VD (Must be named. RP 106.)	HQ CRU (Unit.)

MEMBERS.

Captain	to be detailed by Comd	4 CITR
Lieutenant (Rank.)	to be detailed by Comd (Named or detailed. RP 106.)	2 CITR (Unit.)

WAITING MEMBER.

Captain (Rank.)	to be detailed by Comd (Named or detailed, if any. RP 106.)	2 CITR (Unit.)

JUDGE ADVOCATE.

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

On Active Service in the Fd

in England (Country.)

Date 30 Jun 46

K G Blackader (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding (K G Blackader) 15 Cdn Inf Trg Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (PAGE 17b DEL OF AFAS) 40/P in 67/1607 (6601)

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

MED OFFRS CERTIFICATE 2 CITR/T...

K.R.Can.Para 557

I certify that I have this morning examined No A171999.....

PTE. QUINN..... J.T..... and in my opinion he

is FIT to undergo trial by Court-Martial.

Station: Lorrenbide Camp (NCAMC) Attached to 2 CITR

Date: 7/7/45

FIRST AND SECOND CHARGES

TRIAL OF

D-131399 PTE QUINN JJ CIC - 2 CITR

PROSECUTION

FIRST WITNESS

P-13263 Sgt ADAMS, CAW, on strength of "X" Coy 2 CITR, sworn, states:-

On 24 Apr 45, I was the Orderly Sergeant for "Z" Coy, 2 CITR. At the ORm that day we received a chit from the RP stating that the accused whom I recognize in this Court as being Pte Quinn had failed to answer his name at the defaulters' parade the previous evening. I went to warn the accused on company parade at 1315 hrs that day that he would be for company parade that night for the above charge. The accused was absent from the company parade.

Q. Did you locate him at 1315 on 24 Apr?
A. Yes, Sir, he was dressed in his serge battle-dress, more or less his going out dress.

Q. What was the dress called for for his coy that day?
A. The dress order was denim or cover-alls plus web eqpt.

Q. Did you give him any order at that time?
A. Yes, Sir, I questioned him as to why he had not been on the coy parade and informed him of the other charge. I told him to go on coy parade and change and to get on coy parade.

Q. Did he say anything to you when you ordered him?
A. His attitude was such as if he was not supposed to obey any order, as though he was completely incapable.

Q. Did he return on parade properly dressed by 1400 hrs?
A. No, Sir.

Q. Had he had time to carry out the order?
A. At least, Sir, he had time to start to carry out the order; he had had about 15 to 20 min at the time I saw him next.

Q. Did you repeat the order to him when you saw him the second time?
A. Yes, Sir, I called him back to me and questioned him again as to why he hadn't gone on company parade and ordered him again. His attitude was much the same as at the first time, Sir. He muttered and said: "Ta-ta, it is rather uncouth, Sergeant", and finally he offered to flip a coin with me to see whether he'd go on parade or not. I gave him a chance then of either going on parade or else to the guard-room on charge. At first I had charged with conduct prejudicial - Sec 40 but on going back to my ORm, I was advised that it was a CM offence.

Q. What happened to the accused then?
A. He was placed under close arrest and was taken to the unit detn hks by myself.

THE PROSECUTION IS CLOSED

DEFENCE

FIRST WITNESS

The accused, sworn, states:-

On 24 Apr, in the morning, I went on sick parade and that is is why I was not on the morning parade. I got medicinal duty

I went back to the hut, got my rifle and took to the armourer shop to show it there and to ask the armourer to give me some sort of chit to the effect that it was too badly pitted to be cleaned properly. He said that a chit was not necessary and he stamped a "star" on the barrel and said that it wouldn't be questioned. Then I went back to the hut.

Q. Did you join your company?
A. No, Sir, there were fellows there in the hut present and they told me that my coy had gone to the ranges. In the afternoon I went to the MIR to get my medicine. There was quite a line there and I had to wait so long that I missed the noon parade. After getting my medicine, I started for the OHm. On my way there I met the Orderly Sgt and he questioned me as to why I had not been on the defaulters' parade the evening before. I explained to him that ..

Q. Were you cheeky?
A. No, Sir. Then he directed me into the OHm. I went there and discussed the matter for a while and said that he would give me 10 min to put my denims on and my eqpt on and report to the OHm. I went to the hut and put my eqpt on the bed. Then I turned around and went to the lavatory. On my way there, I met the Sgt.

Q. How long after was that?
A. Five minutes.

Q. What happened after that?
A. The Sgt said, "Quinn, where are you going?", and I said, "Just up here, I'll be right back". Then he said, "I told you to put your eqpt on!", to which I replied, "I'll only be a min". He then said, "You will put it on now". I turned around to obey the order and then he seemed to have changed his mind because he said, "Come to the guard-house with me?".

Q. You heard the Sgt giving his evidence?
A. Yes, Sir.

Q. He mentioned that you were cheeky and also the question about flipping a coin, is that right?
A. No, Sir.

Q. Have you any explanation to offer as to why he acted this way?
A. Well, we are not the best of friends. I suppose we just don't mix - two opposite personalities.

CROSS-EXAMINED

Q. Were you ordered to return to the RAP after lunch on 24 Apr?
A. Yes, Sir.

Q. At what time did you have to go to the RAP?
A. I can't be sure of that.

Q. When Sgt Adams saw saw you were you returning to your hut in order to go on parade?
A. No, Sir, I was on my way to the OHm.

Q. Why were you going to the OHm?
A. The fellows told me that I had to report there after having been to the MIR for any purpose.

Q. Did you have any reason to assume that you were excused from the regular noon parade?
A. No, Sir.

my

Q. Did Sgt Adams give you an order to be in your denims and to have your webb eqpt on and to go on parade?
A. Yes, Sir.

Q. Did you do it?
A. I started, Sir.

Q. Did Sgt Adams ask you a question asking if you would carry out his order or if you preferred to go to the guard-house?
A. No, Sir.

Q. How long does it take you to change from your serge battle-dress into your denims and to put your eqpt on?
A. 2½ minutes, Sir.

QUESTIONS BY THE DEF OFFR

Q. How old are you?
A. 18 years old. I was born at Camden, NJ, on 30 Sep 1926. This is my birth certificate (The Court examines his birth certificate).

Q. At what age did you enlist?
A. At 16, Sir.

Q. Did you come to Canada to join the Canadian Army?
A. Yes, Sir.

Q. Who did you come with?
A. My cousin.

Q. Did you try to join something else than the army?
A. Yes, the RCAF but they wouldn't accept me on account of my eyesight.

THE DEFENCE IS CLOSED

STATEMENT BY THE PROSECUTING OFFICER ON THE FINDINGS

The evidence of Sgt Adams is that he gave the accused a military order and that the accused had time to carry out this order; the witness also states that some fifteen minutes after the order was given it hadn't been carried out.

STATEMENT BY THE DEFENDING OFFICER ON THE FINDINGS

The question in this particular case is whether we will believe the accused or the Sgt. I have no reason to attach the Sgt's character and at the same time I have no reason to doubt the accused's character. He come from a very good home. There is the possibility that their temperament don't exactly meet. Did the accused actually have time to complete the order? He said that he didn't and that he went in immediately after the order had been given to him and got his eqpt and went to the lavatory and met the Sgt and was placed under a charge. Was the time sufficient to carry out the order; I submit that there is certainly conflicting evidence here

Plea in mitigation

Pte John Jones Queen.

Born Camden N.J. 18 yrs old & is a Citizen of U.S. Parents live in Philadelphia & his father is married again & keeps a hotel. The accused has had the opportunity of matriculating. On 1942 he desired to enlist in Canada & for that purpose he left his parents home & went to Montreal where he was refused because he was only eighteen & a half years of age. He was then told to enlist in R.C.A.F. but as he did not like the look of that he refused. Thereupon he enlisted in the Army in Dec 1942 at Montreal as Pte of 16. Came across in Jan 1943 & on 20th was posted to 2 C.A.C.R.U. Prior to his embarkation for England he was medically examined & found to be fit. He has his birth certificate & his discharge from the U.S. Navy forwarded in order to complete necessary documents for enlistment. Letter from Army - 2 C.J.T. has been forwarded to the effect that he served three years in the U.S. Navy & received honourable discharge on March 45 & he received certificate for C.M.H.S. Letter from Army to effect that he served in Canada & will therefore be entitled to Canadian Service Medal & Defence Medal.

My

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SUMMARY OF EVIDENCE

In the case of D-151309 Pte John James QUINN, C.I.C., on strength of 2 Canadian Infantry Training Regiment, 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

P-13263 S.gt. ADAMS, C.A.W., on strength of "X" Coy 2 CITR, having been duly sworn, states:-

"I am P-13263 Sgt. ADAMS, C.A.W. On 24 Apr 45 I was C.O.S. "X" Coy 2 C.I.T.R. D-151309 Pte QUINN, J.J., whom I now recognize, was undergoing C.B., and I had received a chit from Unit Detn Sgt that he had not reported for Defaulters' Parade at 1800 hours, 23 Apr 45. I went to Coy Parade which is at 1215 hrs, and he was not there. I was going in the direction of his hut when I saw him about 1335 hrs. He was in Serge B.D. without anklets or belt. The order of dress for his platoon, No. 1 Platoon, was Denim and battle order. I asked him why he was not on parade, and why he had missed Defaulters' Parade. He did not give a satisfactory answer. At about 1340 hrs I ordered him to go to his hut, put on his denim and battle order and report to me at the Orderly Room. At approximately 1400 hrs, he had not reported. I had cause to go through the Coy lines in the course of my duties. I saw Pte QUINN between huts A-6 and A-7. He was not wearing denim and battle order, and was moving away from his hut and from the Coy Area, and Coy Orderly Room. I called him to me and ordered him again to put on his denim and battle order. He muttered and laughed, and made no move to carry out the order. I repeated the order, and he said he would flip a coin to see if he would obey the order or not. I then said: "Either get on your webbing and denim or you will go to the Guard Room." He said he would go to the Guard Room. There was a lapse of about five minutes between the time I first spoke to him between huts A-6 and A-7, and the time he said he chose to go to the Guard Room. During this five minutes he made no attempt to carry out the order. I took him to the Guard Room about 1400 hrs after reporting my intention to the C.S.M.

The accused declines to cross-examine this witness.

C. A. M. Adams
.....
(P.13263 Sgt. Adams, C.A.W.)

SECOND WITNESS FOR THE PROSECUTION

K-46993 Cpl. BUJNAK, S. on strength of Regimental Police 2 C.I.T.R., having been duly sworn, states:-

"I am K-46993 Cpl. BUJNAK, S., and am N.C.O. in charge of Defaulters. Pte. Quinn, J.J., whom I now recognize, was undergoing C.B. 23 Apr 45, and did not report on Defaulters Parade at 1800 hrs, 23 Apr 45.

The accused declines to cross-examine this witness.

.....Bujnak.....
(K-46993 Cpl. Bujnak, S.)

THIRD WITNESS FOR THE PROSECUTION

F-2684 Cpl. BENNETT, F.C. on strength of "X" Coy 2 C.I.T.B., having been duly sworn, states:-

"I am F-2684 Cpl. BENNETT, F.C. on strength of "X" Coy 2 C.I.T.B. On the night of 23 Apr 45, I was N.C.O. in charge of Hut A-2 where Pte Quinn, J.J., whom I now recognize, has his bed. At 2215 hrs, 23 Apr 45, I called the roll and Pte. Quinn, J.J. was present.

The accused declines to cross-examine this witness.

.....
(F-2684 Cpl. BENNETT, F.C.)

The accused was cautioned as follows:-

"Do you wish to make any statement or to give any 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) and (F) have been complied with.

Laurentide Camp

1 May 45

.....Saperia Lieut.....
(P. Saperia) Lieut
Officer detailed to take
The Summary of Evidence.

ETA
1107

SUPPLEMENTARY SUMMARY OF EVIDENCE

In the case of D.131399, Pte. QUINN, J.J., CIC, on strength of 2 Cdn. Inf. Training Regt., a soldier of the Cdn. Army Overseas.

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

.....

Fourth Witness. Lieut. A.W. Geddes, R.H.Q., 2 CITR, having been duly sworn, states as follows:-

"I am Lt. A.W. Geddes, R.H.Q. 2 CITR, and I produce the following documents pursuant to Overseas R.O. 5352 which have been read over and shown to the accused, and which are attached hereto as Exhibits:-

Exhibit "A":- Certified True Extracts from 2 CITR Pt.II Daily Order No. 110 of 11 May 45, showing D.131399, Pte. Quinn, J.J. AWL from 1900 hrs. 6 May 45, having escaped unit custody.

Exhibit "B":- Certif. in accordance with P.O.2797, showing D.131399 Pte. Quinn, J.J. was arrested at London at 1820 hrs. 23 June 45.

Exhibit "C":- Expense Voucher showing costs of returning D.131399, Pte. Quinn, J.J. from London to Hassocks in the amount of £0-10-2.

WHICH ABOVE EXHIBITS PERTAIN TO THE ACCUSED HEREIN.-

The accused declines to cross-examine this witness.

A.W. Geddes Lieut.
(A.W. Geddes)

The accused was cautioned as follows:-

"Do you wish to make any statement or to give any 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 Supplementary 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) & (F) have been complied with.

P. Saperia Lieut.
(P. Saperia)
Officer detailed to take the Summary of Evidence.

In the Field,
25 June 45.

E+A
MM

2 CANADIAN INFANTRY TRAINING REGIMENT

Last Order No: 109 d/9 May 45

PART II DAILY ORDERS BY A/COLONEL JA WILSON COMMANDER

This Order No: 110 d/11 May 45

PARA:

11. ABSENT WITHOUT LEAVE

(k) AWL from 1900 hrs 6 May 45. Still absent ~~xxxx~~ 1900 hrs 7 May 45 (Escaped Unit Custody)

D131399 Pte QUINN J J (CIC)

Certified True Extract
31 May 45
.....
(Date)

(Sgd) J.L. UTENGLOTT, Capt/
For AJA BAXTER - Major
ADMIN OFFICER
2 CITR

A. Edmondson Lieut.
(A EDMONDSON) Lieut.
Records Offr 2 CITR

CERTIFICATE IN ACCORDANCE WITH P.C. 5787 of 10 Aug 42

I certify that No. D-131398 ...Rank.. Pte. ...Name... Quinn J.J. .....

Unit... A. A. C.I.T.R. ...(CRU)... was arrested a t..... London ..... (place)

at. 1820 .....(Hour) on...23-June-45...(date) and that at the time of his arrest he was wearing (Military Uniform) [redacted]. 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).

.....Capt.
(R.W. Kyle)
D.A.P.M. C.M.H.Q.

London

24-June-45.

Expense Voucher Re— Ref: KR & O (Can) 539

Reg No D131399 Rank Pte Name QUINN J J Unit #2 C I T R.

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

Date	Particulars	Amount		
24 June 45	Escorts return fare from LONDON To Barrie		6	7
	Prisoners single fare to LONDON From			
	Prisoners fare from Barrie to Barrie		3	5
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	0	10	2

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

R R Davison Capt

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

1/35 CMHQ 100-55 40/P & S/183 (6762)

ARMY FORM B.299 (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)*
D-131399	Pte	John James QUINN	2 Cdn Inf Trg

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, precedence 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 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	A.A. Sec. 15(1)	6 times.
For	A.A. Sec. 15(2)	1 times.
For	A.A. Sec. 9(2)	1 times.
For	A.A. Sec. 40	2 times.

Date of first entry in Field Conduct Sheet 10 Aug 43

Date of last entry in Field Conduct Sheet 28 Apr 45

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

Strike out if not applicable.

~~3. The accused at the present time is under sentence for 7 days C.B. beginning on the 28th day of April 1945.~~

4. The accused has been awaiting trial on the present charges for

days in civil custody; and for 34 days in military custody, *i.e.*,

0 days in open arrest, 34 days in close arrest; of

which 0 days were spent in hospital.

5. The present age of the accused is 18 years, 9 months.

6. The date of his ~~enlisting or for military service~~ attestation is 11 Dec 42.

~~7. The service which the accused is allowed to reckon is :—~~

Strike out the military decorations if any held by accused.

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

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.*

C+B

RM

(20971) W1.42139/4898 45,000 11/44 A.S.E.W.Ltd. Gp.698 Forms/B.299/War/a

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

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

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

Signed this 4th day of July 19[illegible]

[illegible] Capt.
Late Adjt 2 CMR

No. D131399 Name Quinn J.J. Sqn, Battery, or Company — Corps C IC — Date of enlistment 11-Dec 42 — GC Badges — Service or Proficiency Pay — 3/17 MFM 6 (AFB 122) 40/PAM.136 (7910)

Date of last entry in Company Conduct Sheet NIL — No. and date of last drunk NIL — Period not reckoning towards freedom from extra fine NIL — Sheet No. 1 — Signature OC Company, etc (R.C.HODGINS) Capt — 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
SHEET DESTROYED 11-6-43			LAST ENTRY ON 3-5-43; CASES OF DRUNKENNESS						
Camp Borden	10-8-43	Tpr		AA Sec 15 (1) AWL from 1200 hrs 3-8-43 until 0200 hr s 10-8-43 Absent 6 days 14 hrs	Cpl Ross	14 days C.B. 14 days pay AA Sec 46 (2)	10-8-43	Lt Col Smith	forf 7 days pay FRI 149 (1)(a) forf 13 days pay
London Ont	25-10-43	Tpr		AA Sec 15(1) AWL from 0600 hrs 25-10-43 until app 1100 hrs 6-11-43 Absent 12 days 5 hrs	Doc'y	14 days C.B. Cost of app $7.41	8-11-43	Capt G.W. Sawtell	FRI 149 (1) (a)
Camp Borden	15-1-43	Tpr		(1) AA Sec 15(2) Failure to appear at a place of parade appointed by his Commanding Officer (2) AA Sec 9 (2) Disobeying a lawful command given by his Superior Officer	A/L/Cpl A. Bell	3 days pay & 10 days extra fatigues	18-1-44	Lt Col J Begg	

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	17 Aug 44	Tpr		A A Sec 15(1) NDAS AWL from 0600 hrs 17 Aug 44 to 0745 hrs 22 Aug 44 (Ab sent 5 days 1 hr 45 min.	Doc'y Cpl Gross F.C.	forf 10 days pay AA Sec 46(2)(c)	22 Aug 44	Col J.H. Perry	forf 6 days pay FRI 149(1)(a) &forf 10 days FRI 149 (2)
Field	2-11-44	Pte		AA 15(1) AWL when his Coy was on route march from 1130 hrs 2 Nov 44 until 1625 hrs 2 Oct 44	Lt Boychuk Cpl Milton WH	7 days C.B.	4-11-44	R.C.Honey Major	
Field	26 Jan 45	Pte		A A Sec 15(1) NDAS AWL from 0800 hrs 26 Jan 45 until 2020 hrs 26 Jan 45 Tot al absence 12 hrs 20 mins.	Lt Green RW	forf 1 days pay FRI 149(2)	27-1-45	TW Cowley Major	forf 1 days pay FRI 149 (1)(a)
Field	13 Jan 45	Pte		AA Sec 40 NDAS Neglect to t he Proj etc., failing to carry out an order as ins tructed.	Cpl Shepherd R.J.	7, days C.B.	15 Jan 45	J.T. Robb Capt.	

No. D-131399 Name Quinn JJ. Sqn, Battery, or Company Corps CAC Date of enlistment 11-12-42 GC Badges Service or Proficiency Pay 3/17 MFM 6 (AFB 121)

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 OC Company, etc R.B. Green Lt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	1 Apr 45	Pte		AA Sec 15(1) WOAS AWL from 1700 hrs 1 Apr 45 to 2340 hrs 4 Apr 45. Absent 3 days 6 hrs 40 mins	L/C Shone H.A.	8 days F.P. Forf 8 days pay FMAI 149(1)b	6 Apr 45	Lt col Macmillan	Forf 4 days by FMAI 139(1)a
Field	23 Apr 45	Pte		AA Sec 40 WOAS An Act to the Prej. etc., appear ed on parade with a dirty rifle	Sgt Finlay	7 dyas C.B.	23 Apr 45	Lt Finlayson	

CERTIFIED TRUE COPY CONSISTING OF PAGES

DATE 26 Apr 45

(I.D. Main) capt
Adjutant, 2 CIAB
OFFICER HAVING CUSTODY OF REGIMENTAL BOOKS

2 CITR/13

LIST OF WITNESSES

In the case of D-131399 Pte QUINN, J.J.
(No.) (Rank) (Surname & Initials)

CIC, on strength of 2 Cdn. Infantry Training Regiment, a soldier of the Cdn. Army Overseas.

(For the Prosecution)

1. P-13263 Sgt. ADAMS, C.A.W. "X" Coy 2 CITB.
2. K-46993 Cpl. BUJNAK, S., of Regt Police 2 CITR.
3. P-2684 Cpl. BENNETT, F.C. of "X" Coy 2 CITB. RHQ. 2 CITR.
4. Lt. A.W. Geddes

(For the Defence)

N I L

LIST OF EXHIBITS

In the case of D-131399 Pte QUINN, J.J.
(No.) (Rank) (Surname & Initials)

CIC, on strength of 2 Cdn. Infantry Training Regt., a soldier of the Cdn. Army Overseas.

(For the Prosecution)

~~xxxxxxxxxxx~~ Exhibit "A".	N I L	Certif. True Extract of 2 CITR D.O. Orders showing accused AWL from 1900 hrs. 6 May 45, having escaped unit custody.
~~xxxxxxxxxxx~~ Exhibit "B".	-	Certif. in accord. with P.C.2797 showing accused arrested at 1820 hrs. 23 June 45.
~~xxxxxxxxxxx~~ Exhibit "C":	-	Expense Voucher showing costs of return of accused - £0-10-2.

(For the Defence)

N I L

REQUEST FOR DEFENDING OFFICER

I, D-131399 Pte John James QUINN

hereby request that the Convening Officer appoint ~~Lt A. Green~~ A. Kruger to represent me at my forthcoming trial by Court-Martial, should he be available. ~~my available officer failing him~~

Laurentide Camp,
25 June 45. (D-131399 Pte Quinn, J.J.)

RECEIPT FOR DOCUMENTS.

I, D-131399 Pte John James QUINN hereby acknowledge that I have received a true copy of the Summary of Evidence taken in England preliminary to my Court-Martial, and I further acknowledge receipt of a true copy of the Charge Sheet under which I am being brought to Court-Martial.

Laurentide Camp.
25 Jun 45 (D-131399 Pte Quinn, J.J.)

COUNTER NUMBER 465199

HOUR 12 20

OPERATOR'S INITIALS DG.

RELIEVING OPERATOR _____

END

FIRST

SIDE

REEL
NO. 44.80

REEL
NO.
44.80

START

SECOND

SIDE

40-148

Pte. Quinn L.J.

SCHEDULE.

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

Accused: C 20852 Pte Lucien Joseph Quinn

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15(1)	Guilty	Guilty	~~To undergo detention for a period of Eighteen months~~ JDH
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 lieu of kit see RP 44 fn 6.)

~~As 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 B355 or AF B296.)

Time in confinement awaiting present trial—a total of 2 days, of which Nil days were spent in hospital.(1) JDH

(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 eighteen months

(Sgd) ..... 2 Jan 45 (Sgd) John D Watson Major.
Judge-Advocate, if any. Date awarded. President. (RP 45, 52.)

(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) fn 6.46(A), 51-56, 120, MML pp 759-764, 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(C). If not confirmed, accused may be tried again: AA 127, MML p 64. 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 fn 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) JDH
(1. AA 57A. Delete if not used.)

(Sgd) E.H. Luckie Brigadier

Date 3 Jan. 1945 Commanding CRA 3 Cdn. Inf. Division
Confirming Officer.

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

Accused.	Date.	Signature of Offr.
C-20852 Pte Lucien Joseph QUINN	9 Jan 45	(W C Baird) Major A/C O Cameron Highlanders of Ottawa(MG)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 40-148

FIELD GENERAL COURT-MARTIAL

(CPA86 (In lieu of AF A52) 47-P.G.S.-1608 (2604))

~~Convened~~ reversed by Order of Brigadier E.H. Luckie Comd CRA 3 Cdn Inf Div dated 30 Dec 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) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C 20852	Pte	Lucian Joseph	QUINN	CH of O (M.G.)

PROCEEDINGS REVIEWED

4 Jan 45 W.K. Lawley Capt

REVIEWING OFFICER, [illegible]

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 2 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins KRs. 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 A95, for oaths and tests on how to record addresses, evidence, etc, which duties are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~(s)~~ attached thereto.(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.(3) JDH

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

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences.

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

(1. KR Can 552. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ ~~as interpreter? Ans~~
~~The Interpreter is sworn.(1) Do you object to~~ ~~as shorthand writer? Ans~~ Nil
~~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, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 78, 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	J D Southam	3 Cdn A Tk Regt RA
Member	Lieut	PB Smellie	CH of O (MG)
Member	Lieut	H A Grimm	7 Cdn Inf Bde Sig Regt
Judge-Advocate			
Prosecutor	Capt	J.C. Woodward	CH of O (M.G.)
Defending Offr	Lieut	H.B. Jacobson	CH of O (M.G.)

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

(1. RP 26, 27, 109, 110. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment unless RP 59 (B) and fn 2 were not followed. See Div p 3.)

A8. The accused C 20852 Pte Lucien Joseph QUINN before arraignment make(s) (no) ~~(a)~~ plea. JDH (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 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 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 fns to RoP 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 ~~(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. JDH

(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 use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening 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 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(*U*); *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 recalling of witnesses by Court etc see RP* 75-79, 86, 136; *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), and 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. Nil (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) 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 pleas standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. 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 NOT 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 C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate 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.(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 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 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 (inc 2, 9.)*)

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

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court 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 54(2), 116, 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 Forms 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 Nil
(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 Sheets~~(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) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. The ~~and Ex. respectively~~.(3)
(1. *AFB 353 or AFB 296.* 2. *AFB 6.* 3. *RP 46, KR Can 550. 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(1) Ans. I call through my defending officer (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or state anything there 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.(1)
(1. *AA 54(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 21(D). One sentence only, comprised of the punishment or punishments laid down in AA 40, 44 and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas NO 309, 2323, 3896L 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 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. 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.

~~Exhibit "A" [illegible]~~

CHARGE SHEET

The accused C-20652 Pte Lucien Joseph QUINN, a soldier of the Cameron Highlanders of Ottawa(MG), Canadian Army Overseas, is charged with:-

1st CHARGE

AA SEC 15 (1)

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

In that he

in the field, in Belgium, on 24 Oct 44 at 1630 hrs absented himself from the Cameron Highlanders of Ottawa(MG), until surrendering himself at 2230 hrs 18 Dec 44. (Absent 55 days, 6 hrs.)

R M Ross A/Lt-Col

(R M Ross)
Commanding Officer
1st Battalion
CAMERON HIGHLANDERS OF OTTAWA(MG)

In the field.
30 Dec 44.

I direct by FGCM.

Sur the facts
I do so.

E K Lindsay Brigadier
CRA 3 Cdn Inf Division

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate 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, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
020852	Pte		Lucien Joseph	QUINN	Cameron Highrs of Ottawa (MG)

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 Dec 44 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.)

5. I ~~also appoint as Judge-Advocate thereat the Offr~~ mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	J D SOUTHAM (Must be named. RP 106.)		3 Cdn A Tk Regt RCA (Unit.)

MEMBERS.

Lieut	P B SMELLIE		CH of O (MG)
Lieut (Rank.)	M A GERMAN (Named or detailed. RP 106.)		7 Cdn Inf Bde Coy RCASC (Unit.)

WAITING MEMBER.

Lieut (Rank.)	J W ARMSTRONG (Named or detailed, if any. RP 106.)		4 Cdn LAA Regt RCA (Unit.)

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in HOLLAND (Country.)

Dat: 30 Dec 44

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Commanding CRA 3 Cdn Inf Division Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

1st Battalion Cameron Highlanders of Ottawa(MG)

2 Jan 45

I certify that No C-20852 Pte Lucien Joseph QUINN, Cameron Highlanders of Ottawa(MG) is fit to undergo trial by Court-Martial.

.....
(signature of Medical Officer)

Exhibit "A"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of C 20852 Pte QUINN, L.J. "C" Company, 1st Battalion Cameron Highlanders of Ottawa (MG), Canadian Army Overseas charged with absence without leave, A.A. Sec 15 (1)

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

FIRST WITNESS: Capt J.C. Woodward, Adjt., Cameron Highlanders of Ottawa (MG), having been duly sworn states:

I am Capt J.C. Woodward, Adjt., C.H. of O (MG). I produce here a certified true copy of MFB 375 and the certificate of apprehension relating to the accused.

J.C. Woodward Capt

The accused declines to cross examine the witness.

The MFB 375 and certificate of apprehension are attached hereto as Exhibit A and B respectively.

The accused, having been duly warned in accordance with RP 4(e) "Do you wish to make any statement or to give evidence under oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence.

The accused declines to make any statement.

The accused does not call any witnesses.

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.

Peter B. Smellie

(P.B. Smellie) Lt
"C" Company
1st Battalion
CAMERON HIGHLANDERS OF OTTAWA (MG)

In the field

Exhibit "A"

RECORD of the Declaration of a Court of Inquiry assembled at In the field on the 18th day of November 1944, 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. C 20852 Pte Quinn L.J. Cameron Highlanders of Ottawa (MG)

DECLARATION

The Court declare that No. C 20852 Pte Quinn L.J. Cameron Highlanders of Ottawa (MG) illegally absented himself without leave In the field at 1630 hrs on the 24th day of October 1944, that he is still so absent, and that on the 18 November 44 he was deficient, and that he is still deficient of the following articles:—

ARTICLES Vocabulary	Price Cdn	VALUE Sterling	75% ARTICLES	Price Cdn	VALUE Sterling
1 Anklets, web, prs	.99	4 5			
1 Battledress, Blouse	5.25	1 3 6			
1 Bonnet, Tam O'Shanter	.60	2 8			
1 Boots, ankle prs	5.46	1 4 5			
1 Jersey Pullover	1.79	8 0			
1 Shirt, angola, dreb	2.03	9 1			
1 Socks worsted prs	.37	1 8			
1 Battle dress, trousers	5.39	1 4 1½	Prices Certified Correct		
1 Badge Cap	.09	4½			
1 Braces prs	.28	1 4	Signed: J.S. Pollock Capt		
1 Comb, hair	.04	2	for (N.P Daw) Lt-Col		
1 Dressing, field	.24	1 1	ADOS 3 Cdn Inf Div		
1 Belt, waist, large	.74	3 4			
Total	23.27	5 4 2	Total	17.45	3 18 11½

Signed: W.J.P. Styles Capt President

Signed: J.A. Morris Lt Member

Signed at Field

Signed: RSM Brunet L.D. Member

this 26 day of Nov 1944

Signature of Commanding Officer Signed: R.M. Ross Lt-Col

Certified true copy J.L. Woodward, Capt & Adjt

Signature of Officer having custody of original record

M.F.B. 275
A.F.B. 135
RM—6-41 (750)
H.Q. 1171-38-267

Exhibit "B"

CERTIFICATE UNDER ARMY ACT SECTION 153 (1) (1)

tified that No.S.20852....Rank.PTE...Name..QUINN.A.J.....
of the..C.M.P.....Re[illegible], surrendered to No.P.122194.....
~~apprehended by~~
Rank..PTE.....Name.ESPERANCE....O.R.....of the...REGT.POLICE....
.....C.M.P.....at..2.C.B.R.G....at..2220..hrs, on the...18th.....
day of...DEC...1944..... as an absentee without leave.
He was wearing Military Uniform a ti[illegible] of his ~~Arrest~~ Surrender.

Place..LEOPOLD BARRACKS

Date..DEC.18th.1944...

(L.H. MITCHELL) Lt-Col
O.C., 10 C.B.R. Bn.

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).*
C-20652	Pte	Lucien Joseph QUINN	Cameron Highlanders of Ottawa(MG

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, 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 _____ _____ times.

For _____ _____ 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.

*~~X XXXXXXXX XXXX XXXXXX XXXXX XXXXXXXXXXXX~~ *Nil*

~~XXXXXX XX XXX~~ *Nil* ~~XXXXXX~~ *Nil*

*Strike out if not applicable.

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

5. The present age of the accused is 27 years, 1 month, 13 days

6. The date of his attestation is 13 Sep 1939

~~X XXXX XXXXXXXXXXX

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

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

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

Signed this 30th day of December 1944

J. B. Wardwell, Capt. & Adjt

Plea of Mitigation in the Case of

C. 20852 Pte. Quinn L.F.

Sir, the accused has entered a plea of guilty to the offence and is ready now to take his punishment.

~~His~~ man's wife is about to have a baby and his mental outlook has been raised upon.

His whole career in the army is now being spoilt by this misdemeanor he is as thoe and quite prepared to take his punishment and throws himself on the mercy of the court. I point out that this soldier turned himself in to the Provost and did not wait to be arrested.

EB Jackson Lieut

4/C-145

FIELD GENERAL COURT-MARTIAL

CPA66 (To Item of A.F.A.M. 40/P & S./1688 (E. 44))
4/38B

Convened by Order of Brigadier E.R. Suttie Comd CRA 3 Cdn Inf Div dated 30 Dec 44

ACCUSED.

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

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit
C-20852	Certified true copy Pte Lieut-Colonel A/Capt 2 D J A, Cdn Sec G HQ 2 Cdn 21 Army Gp.	Lucien Joseph	Quinn	Ch of C (RC)

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) HOLLAND on (*date(s)*) 2 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fms RDs. 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 A65, 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 52, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President inspects and lays before the Court the Convening Order and Charge Sheet[1] 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 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 0930 hours trial commences.

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

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

A5. ~~President to accused: Do you object to ... as interpreter ? Ans ...~~
~~The Interpreter is sworn.[1] Do you object to ... as shorthand writer ? Ans ...~~
~~The shorthand writer is sworn.[1]~~

(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, waiting member retires. RP 68(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	Major	J.T. Southam	3 Cdn Tk Regt RCA
Member	Lieut	P.R. Smellie	C.M. of C. (RC)
Member	Lieut	M.A. German	7 Cdn Inf Bde Coy RCASC
Judge-Advocate			
Prosecutor	Capt	J.C. Woodward	Ch of C. (RC)
Defending Offr	Lieut	H.D. Jackson	C.M. of C. (RC)

Questions by President : Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO[2]

(1. RP 26, 27, 109, 110. List of offrs under instr will be returned separately with proceedings for information of Comr Offr.)
(2. If Pros 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 2.)

A8. The accused C-20852 Pte Lucien Joseph Quinn before arraignment make(s) (not (a)) plea

(1. If a special plea is made for separate trial on one or more charges (RP 42(6), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 87), 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 fns to RoP cited. Insert in All mark 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 ~~(do)~~ not object to any charge.[2] There is no amendment to be made to the Charge Sheet.[2] The President records the pleas in Part I of the Schedule.

(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 use separate copies of CF A66 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

Europe 22
P 132

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

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

Accused : C-20852 Pte Lucien Joseph Quinn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	A.A. 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 8.)

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

(1. Insert sentence being served, or delete, if not applicable. See RP 60(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which NIL 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 eighteen Months

(Sgd) ... Judge-Advocate, if any. 2 Jan 45 Date awarded. (Sgd) John D Southam Major 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 ... (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 137, 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 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 :

CONFIRMED

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

(Sgd) H.D. Suttie Brigadier
Date 2 Jan 45 Commanding CRA 3 Cdn Inf Division
Confirming Officer.

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

Accused.	Date.	Signature of Offr.
C-20852 Pte Lucien Joseph Quinn	9 Jan 45	W.C. Baird (W.C. Baird) Major A/CO Queens Highlanders of Ottawa

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening 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 instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

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

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

B1. The President or J A, 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~~.(5)

(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 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 (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 1 of the Schedule is amended accordingly.~~

(1. *Court may be cleared 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, try such charge(s) by use of paras 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 C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate 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.(2)

(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 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 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 (fns 2, 9.)*)

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

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) 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(6).*)

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

(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

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) (a), 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, 40 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 Charge(s) and 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(3) (g) (h), 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~~ respectively.(3)

(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 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 through my defending officer~~.(2)

(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 have 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 54(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 J.A. 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 40, 44 and its proviso, is to be awarded to cover all charges on which accused found guilty. RP 48. As to sentences see AA 64, 136, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas NO 304, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused C-20852 Pte Lucien Joseph Quinn a soldier of the Cameron Highlanders of Ottawa (MG), Canadian Army Overseas is charged with:/

FIRST CHARGE
A.A. Sec 15 (1)

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

In that he

in the field, in Belgium, on 24 Oct 44 at 1630 hrs absented himself from the Cameron Highlanders of Ottawa (MG) until surrendering himself at 2230 hrs 18 Dec 44. (Absent 55 days, 6 hrs.)

R.M. Ross Lt Col
(R.M. Ross) Lt Col
Commanding Officer
1st Battalion
CAMERON HIGHLANDERS OF OTTAWA(MG)

In the Field
30 Dec 44

To be tried by FGCM.

In the Field
30 Dec 44

E.R. Suttie Brigadier
CRA 3 Cdn Inf Division

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate 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 fn. 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
C-20852	Pte		Lucien Joseph	Quinn	Cameron Highr of Ottawa (MG)

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 Dec 44 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.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	J D Southam		3 Cdn A Tk Regt RCA

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Lieut	P B Smellie		CH of O (MG)
Lieut	W A German		7 Cdn Inf Bde Coy RCA

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	J W Armstrong		4 Cdn LAA Regt RCA

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in HOLLAND (Country.)

E.P. Suttie (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Dat 30 Dec 44

Commanding CRA 3 Cdn Inf Division
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (CFA 98 (In lieu of AFA 3) 40/F & S/1691 16163) (See overleaf for oaths and notes for use on trial.)

1st Battalion Cameron Highlanders of Ottawa (MG)

2 Jan 45

I certify that C-20852 Pte Lucien Joseph Quinn, Cameron Highlanders of Ottawa(MG) is fit to undergo trial by Court Martial.

J.L. Hanks Capt
(Signature of Medical Officer)

Exhibit "A"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of C20852 Pte Quinn, L.J. "C" Company, 1st Battalion Cameron Highlanders of Ottawa (MG) Canadian Army Overseas charged with absence without leave, A.A. Sec 15 (1)

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

FIRST WITNESS: Capt J.C. Woodward, Adjt., Cameron Highlanders of Ottawa (MG), having been duly ~~sworn~~ sworn states:

The MFB 375 and certificate of apprehention are attached hereto as Exhibit A and B respectively.

The accused, having been duly warned in accordance with RP 4(e) "Do you wish to make any statement or to give evidence under 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 writting and may be given in evidence.

The accused declines to make any statement.

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.

P B Smellie
(P B Smellie) Lt.
"C" Company
1st Battalion
CAMERON HIGHLANDERS OF OTTAWA (MG)

In the Field

RECORD of the Declaration of a Court of Inquiry assembled at In the field on the 28th day of November 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. C-20852 Pte Quinn L.J. Cameron Highanders of Ottawa (MG)

DECLARATION

The Court declare that No. C-20852 Pte Quinn L J

Cameron Highlanders of Ottawa (MG)

illegally absented himself without leave In the field

at 1630 on the 24th day of October 1944

that he is still so absent, and that on the 18 November 44 he was deficient, and that he is still deficient of the following articles:—

ARTICLES Vocabulary Price Cdn		VALUE Sterling			ARTICLES 75% Price Cdn		VALUE Sterling		
1 Anklets, web, prs	.99		4	5					
1 Battledress, Blouse	5.25	1	3	6					
1 Bonnet, Tam O'Shanter	.60		2	8					
1 Boots, ankle prs	5.46	1	4	5					
1 Jersy pullover	1.79		8	0					
1 Shirt, angola, drab	2.03		9	1					
1 Socks worsted prs	.37		1	8					
1 Battle dress, trousers	5.39	1	4	1½	Prices Certified Correct				
1 Badge Cap	.09			4½					
1 Braces prs	.28		1	4	Signed: J.S. Pollock Capt				
1 Comb hair	.04			2	for (N.P. Dew) Lt Col				
1 Dressing, field	.24		1	1	ADOS 3 Cdn Inf Div				
1 Belt, waist, large	.74		3	4					
Total	23.27	5	4	2	Total	17.45	3	18	1½

Signed W.J.P. Styles Capt President

Signed J.L. Morris Lt Member

Signed at Field

Signed R5M Brunet L.D. Member

this 28 day of Nov 1944

Signature of Commanding Officer Signed: R.W. Ross Lt Col

Certified true copy J.C. Woodward Capt & Adjt

Signature of Officer having custody of original record

M.F.B. 375
A.F.B. 135
2556—6-41 (750)
H.Q. 1772-38-217

EXHIBIT "B"

CERTIFICATE UNDER ARMY SEC 163 (i) (j)

Certified that NO C20853 RANK Pte NAME Quinn L T,
of the C H of O Regt, surrendered to NO B 13194
Rank Pte Name Lesperance O A of the Regt Police
10 Bn at 2 C B R G at 2230 hrs, on the 18 th
DAY IF DEC 1944 as an absent without leave.

He was wearing Military Uniform a time of ~~the~~ his Surrender.

Place Leopold Barracks
Date Dec 18 th 1944

F.M. Mitchell
(F.M. Mitchell) Lt Col
O. C. 10 C.B.R.Bn

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
C-20652	Pte	Lucien Joseph QUINN	Cameron Highlanders of Ottawa (MD)

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.—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 annexed to the proceedings.
† See para. 67, K.R., 1940.
* The number 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 to any recognized special acts of gallantry or distinguished conduct.
INSTRUCTION.—If the charge is one of drunkenness, such entries (if drunkenness must be stated separately and dated.

	* Within last 12 months.	* Since Enlistment.
For	times	times
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct.

or

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

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 LMF beginning on the day of 8 LMF

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 12 days in military custody, making a total of 12 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service / attestation paper is 27 years, 1 month, 13 days

6. The date of his commission / attestation specified in his record of service / attestation paper is 13 Sep 39.

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

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

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

10. The accused is in possession of, or entitled to, the military decoration or military awards (*or* is in possession of *or* entitled to *state any military decoration or reward*). CVSM & Clasp

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

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 .

WILLOUGHBY BDE. (1940) P. Ltd. T54-A

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.

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

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

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, 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.

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

Signed this 30th day of December 1944 J.G. Woodward, Capt & Adjt

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be obtained from such sources as are available and the paragraph inserted amended accordingly.)

15 The accused has served as a non-commissioned officer [illegible] years.

Of these [illegible] years

In the rank of L/Cpl years,

In the rank of L/Cpl years,

In the rank of L/Cpl years.

Character of Previous [illegible]

PLEA OF MITIGATION IN THE CASE OF
C-20852 Pte Quinn L J

Sir the accused has entered a plea of guilty to the defence and is ready now to take his punishment.

This man's wife is about to have a baby and his mental outlook has been much upset.

His whole career in the army is now being spoilt by this misdemeaner. He is as I have said quite prepared to take his punishment and throw himself on the mercy of the court. I point out that this soldier turned himself in to the Provost and did not wait to be arrested.

H. B. Jackson Lieut.

SCHEDULE.

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

Accused : C-20052 Pte Lucien Joseph Quirn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	N.G. 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 683 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 733, 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 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which NIL 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 fourteen (14) days

(Sgd) ..... 9 Jan 45 (Sgd) John D. Southam 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(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) 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(7). 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 entered 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 fn 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)

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

(Sgd) W.H. Cattle Brigadier

Date 9 Jan 45 Commanding CDA 5 Cdn Inf Division
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
C-20052 Pte Lucien Joseph Quirn	9 Jan 45	W.D. Baird (W.O. 1st Cl) Major A/PM Command Headquarters of Citizen Forces

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

CFA96 (To line of A/PAM) 40/P & R/1(68) (1) (es)

40-14

Convened by Order of Brigadier E.H. Cattle Comd CDA 5 Cdn Inf Div dated 30 Dec 44

ACCUSED.

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

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-20052	Pte	Lucien Joseph	Quirn	Cdn R 22e R

Certified true Copy
W.D. Thompson Capt
A.D.J.A.
Cdn. Sec. G.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 2 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Countries do NOT include all relevant from KDs. 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 bare numbers herein. See back of Convening Order, CF A95, 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 (as to 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) 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.(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 (are) brought before the Court. At 1330 hours trial commences.

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

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

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

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

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

(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, waiting member retires. RP 60(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	Major	J.J. Southam	5 Cdn Inf Div RCA
Member	Lieut	P.D. Ingalls	C.I. of C. (NS)
Member	Lieut	W.A. Gorman	7 Cdn Inf Bde Coy RCASC
Judge-Advocate			
Prosecutor	Capt	J.C. Woodward	CI of C. (NS)
Defending Offr	Lieut	P.D. J Glynn	C.I. of C. (NS)

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

A8. The accused C-20052 Pte Lucien Joseph Quirn 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), 108), or as to the jurisdiction of the Court (RP 36, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental illness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 66, 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 fns to RoP cited. Insert in A8 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 (do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(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 use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, ete, 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 M M L 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 68(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 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. NIL (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) to~~ charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared 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 of Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of* standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. *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 paras 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, deal thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate 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.

All here Loose Sheets of Record.

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

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... (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 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. ..... 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(C).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

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

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) 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) (8), RP 45, 120(4).* 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 (copies) of Conduct Sheet(s)~~(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B ~~and C respectively~~.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 2 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 through my defending officer (2)
(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 there 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 54(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 as proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to apportionment see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RD 309, 2323, MML p 60, 737-7.10. 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 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. 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.

CHARGE SHEET

The accused C-20652 Pte Lucien Joseph Quinn a soldier of the Cameron Highlanders of Ottawa (MG), Canadian Army Overseas is charged with:/

FIRST CHARGE
A.A. Sec 15 (1)

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

In that he

in the field, in Belgium, on 24 Oct 44 at 1630 hrs absented himself from the Cameron Highlanders of Ottawa (MG) until surrendering himself at 2230 hrs 18 Dec 44. (Absent 55 days, 6 hrs.)

R.M. Ross Lt Col
(R.M. Ross) Alt Col
Commanding Officer
1st Battalion
CAMERON HIGHLANDERS OF OTTAWA(MG)

In the Field
30 Dec 44

To be tried by FGCM.

In the Field
30 Dec 44

E.R. Suttie Brigadier
CRA 3 Cdn Inf Division

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate 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 seperate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
O-20852	Pte		Lucien Joseph Quinn		Cameron Highr of Ottawa (MG)

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 ~~(now)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 20 Dec 46 endorsed by me, ~~he 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 this action 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 thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

~~Major~~ (Rank.)	J D Southam (Must be named. RP 106.)		3 Cdn A Tk Regt RCA (Unit.)

MEMBERS.

Lieut	P B Scollie		Gr of C (MG)
~~Lieut~~ (Rank.)	H A Cormack (Named or detailed. RP 106.)		7 Cdn Inf Bde Coy RCA (Unit.)

WAITING MEMBER.

~~Lieut~~ (Rank.)	J V Armstrong (Named or detailed, if any. RP 106.)		4 Cdn LAA Regt RCA (Unit.)

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in NORTH WEST EUROPE (Country.)

Dat 20 Dec 46

H. W. Foster (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding ~~GRA~~ 3 Cdn Inf Division
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 65 (In lieu of AFA 3; AO 7 & 8/1867 (81AB)

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

1st Battalion Cameron Highlanders of Ottawa (MG)

2 Jan 45

I certify that C-20852 Pte Lucien Joseph Quinn, Cameron Highlanders of Ottawa(MG) is fit to undergo trial by Court Martial.

J.L. Hanks Capt
(Signature of Medical Officer)

Exhibit "A"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of C20852 Pte Quinn, L.J. "C" Company, 1st Battalion Cameron Highlanders of Ottawa (MG) Canadian Army Overseas charged with absence without leave, A.A. Sec 15 (1)

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

FIRST WITNESS: Capt J.C. Woodward, Adjt., Cameron Highlanders of Ottawa (MG), having been duly sworn states:

The AFB 375 and certificate of apprehention are attached hereto as Exhibit A and B respectively.

The accused, having been duly warned in accordance with RF 4(c) "Do you wish to make any statement or to give evidence under 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 writting and may be given in evidence.

The accused declines to make any statement.

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 RF 4 (c) (d) (e) (f) and (g) have been complied with.

P B Smellie
(P B Smellie) Lt.
"C" Company
1st Battalion
CAMERON HIGHLANDERS OF OTTAWA (MG)

In the Field

RECORD of the Declaration of a Court of Inquiry assembled at In the field on the 18th day of November 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. C-20852 Pte Quinn L.J. Cameron Highanders of Ottawa (MG)

DECLARATION

The Court declare that No. C-20852 Pte Quinn L J

Cameron Highlanders of Ottawa (MG)

illegally absented himself without leave In the field

at 1630 on the 24th day of October 1944

that he is still so absent, and that on the 18 November 44 he was deficient, and

that he is still deficient of the following articles:—

ARTICLES Vocabulary	Price Cdn	VALUE Sterling			ARTICLES 75% Price	Cdn	VALUE Sterling		
1 Anklets, web, prs	.09		4	5					
1 Battledress, Blouse	5.25	1	3	6					
1 Bonnet, Tam O'Shanter	.60		8	8					
1 Boots, ankle prs	5.46	1	4	5					
1 Jersy pullover	1.79		8	0					
1 Shirt, angola, drab	2.03		9	1					
1 Socks worsted prs	.37		1	8					
1 Battle dress, trousers	5.39	1	4	1½	Prices Certified Correct				
1 Badge Cap	.09			4½					
1 Braces prs	.38		1	4	Signed: J.S. Pollock Capt				
1 Comb hair	.04			2	for (W.F. Dow) Lt Col				
1 Dressing, field	.24		1	1	ADOS 3 Cdn Inf Div				
1 Belt, waist, large	.74		3	4					
Total	23.27	5	4	2	Total	17.45	3	18	1½

Signed W.J.F. Styles Capt President

Signed J.A. Morris Lt Member

Signed at Field

this 26 day of Nov 19 44 Signed R.H. Brunet L.D. Member

Signature of Commanding Officer Signed: R.W. Rose Lt Col

Certified true copy J.C. Woodward Capt A Adjt

Signature of Officer having custody of original record

M.F.B. 371
A.F.S. 128
MM 4-40 (750)
H.Q. 1172-38-247

EXHIBIT "B"

CERTIFICATE UNDER ARMY SEC 163 (i) (j)

Certified that NO G20853 RANK Pte NAME Quinn L.T.
of the C H of S Regt, surrendered to NO D 135194
Rank Pte Name Lesperance O A of the Regt Police
10 Bn at 2 C B R D at 2230 hrs, on the 18 th
DAY IF DEC 1944 as an absent without leave.

He was wearing Military Uniform a time of ~~the~~ his Surrender.

Place Leopold Barracks
Date Dec 18 th 1944

F.M. Mitchell
(F.M. Mitchell) Lt Col
O. C. 10 C.B.R.Bn

JDS

ARMY FORM B.296

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
C-20652	Pte	Lucien Joseph QUIN	Cameron Highlanders of Ottawa (MG)

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.—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 annexed to the proceedings.

† See para. 627, K.R., 1940.

* 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 to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness, the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment
For	times	times
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct.

or

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

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 [illegible] beginning on the day of [illegible] LW

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 10 days in military custody, making a total of 10 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service / attestation paper is 27 years, 1 month, 13 days.

6. The date of his conviction / attestation specified in his record of service / attestation paper is 13 Aug 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is [illegible] LW

8. The accused is entitled to deferred pay or gratuity in respect of [illegible] service.

9. The accused is entitled to reckon [illegible] service for the purpose of determining his pension, etc.

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

11. (*In the case of a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of [illegible] LW

12. (*In the case of an officer.*) The accused holds in the army the rank of [illegible], dated [illegible], and in his regiment (*or corps or department*) the rank of [illegible] dated [illegible]

W1/3507/2393 20M. 5/40. P. Ltd. TM-A

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.

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

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

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, 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

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

Signed this 30th day of December 1944

J.R. Woodward, Capt & Adjt

PLEA OF MITIGATION IN THE CASE OF
C-20852 Pte Quinn L J

Sir the accused has entered a plea of guilty to the defence and is ready now to take his punishment.

This man's wife is about to have a baby and his mental outlook has been much upset.

His whole career in the army is now being spoilt by this misdemeanor. He is as I have said quite prepared to take his punishment and throw himself on the mercy of the court. I point out that this soldier turned himself in to the Provost and did not wait to be arrested.

H. B. Jackson Lieut.

4.D.20

PTE QUINN M.J.T.D.

4D.53

PFC Quinn MITD.

SCHEDULE.

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

Accused: C20578 Pte Martin Joseph Taylor Dominic QUINN - 4 CITR - CIC

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY.	GUILTY	
2nd AA Sec 15(1)	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 482 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) w o f

(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 16 days, of which Nil 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 six (6) months

(Sgd) ..... Judge-Advocate, if any. 3 NOV 44 Date awarded. (Sgd) W A Freeman Major 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 ..... (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 attested 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 fn 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)

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

(Sgd) (G S M Costling) Brig

Date 4 Nov 44 Commanding "A" Gp Cdn Rft Units CA(O) Confirming Officer.

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

Accused.	Date.	Signature of Offr.
C20578 Pte Quinn M J T D	5 Nov 44	[illegible] AJAG (W) C in C's HQ

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECORDED AT CMHQ IN AB 160, 40-50

RECEIVED 17 NOV 1944 ADJUTANT GENERAL'S BRANCH

FIELD GENERAL COURT-MARTIAL

CFA80 (To Dep of AFAT) (U/P N.S. 1658-23664)

Convened by (a) Brig GSM Costling, ED Comd "A" Gp CRU dated 3 NOV 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) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C20578	PROCEEDINGS REVIEWED	Martin Joseph Taylor Dominic	QUINN	4 CITR CIC

JCIC

REVIEWING OFFICER, JAG

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 3 NOV 44

RECORD FORM OF 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 INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance as 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 895, 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, 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(2), accused is (are) amenable to military law, and each charge discloses an offence.(3) w o f

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

A3. The Court is opened. The accused is (are) brought before the Court. At 1415 hours trial commences. w o f

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) w o f

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

A5. ~~President to accused:~~ Do you object to ..... as interpreter? Ans } w o f

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

~~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, waiting member retires. RP 68(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	MAJOR	W A FREEMAN	2 CITR
Member	Capt	I F BARR	4 CITR
Member	Lt	J A D TREMBLAY	4 CITR
Judge-Advocate			
Prosecutor	LT.	C C ORRISS	4 CITR
Defending Offr	LT.	G T GREEN	4 CITR

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. Lists of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See Dir p 3.)

A8. The accused C20578 Pte QUINN, M J T D before arraignment make(s) (no) ~~(no)~~ plea(s) (2) w o f

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (GB), or as to the jurisdiction of the Court (RP 34, 35(A), 113), 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 16, 71), such plea, the arguments made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP 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 (does 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. w o f

(1. RP 36, 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 896 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (re-assembled) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form (3). w o f

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening 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 instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *end of witnesses see RP* 83-85 ; *calling or recalling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pros 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 N/O .(5)
(1. RP 37(3). 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)(2) on ..... charge(s). Part I of the Schedule is amended accordingly.~~ waf
(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) waf
(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, try such charge(s) by use of paras 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 B4 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 C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate 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.(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 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 ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. RP 55. 2. RP 40(A), see 60(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

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

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) 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) (6), 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 N/O
(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(3) (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) waf
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 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 Y E S .(2) waf
(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)
(1. AA 54(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 7(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, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 309, 336-363-366. Overseas RO 309, 2323, MML p 60, 737-738. 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(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. 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.

CHARGE SHEET

The accused, No. C-20576 Private Martin Joseph Taylor Dominic QUINN, of the Canadian Infantry Corps, on the strength of 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SECTION 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITH OUT LEAVE

in that he,

In the Field, absented himself without leave from 2300 hours on 15th day of September 1944 until apprehended by the Military Police at 2230 hours on the 11th day of October 1944.
(Total absence: 26 days 23 hours 30 minutes)

SECOND CHARGE
SECTION 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the Field, when under arrest, absented himself without leave from 1115 hours on the 16th day of October 1944 he surrendered himself to the Regimental Police at 2140 hours on the 17th day of October 1944.
(Total Absence: 1 days 10 hours 25 minutes)

(G.F.Clingan) Lt Col
T/Commanding Officer
6 Cdn Inf Rft Unit

In the Field
30 Oct 44

To be tried by Field General Court Martial.

(G S N Gostling) Brig
Comd
"A" Gp Cdn Rft Units
C A (O)

Field
3 Nov 44

w a f.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate 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, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
C20578	Pte		Martin Joseph Taylor Dominic	QUINN	4 CITR CIC

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) 3 NOV 44, 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.

~~I, [illegible] hereby appoint myself President of the Court, and I detail the following Officers to be members thereof.~~

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

~~I hereby appoint as Judge Advocate [illegible]~~

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

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	W A FREEMAN	2 CITR

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC 4 CITR	
Lt	to be detailed by OC 4 CITR	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	to be detailed by OC 4 CITR	

~~JUDGE ADVOCATE~~

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

On Active Service in the Fd

in England (Country.)

Date 3 Nov 44

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

(G S N Gostling)

Commanding "A" Gp Cdn Rft Units CA(O)

Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CPA80 (In lieu of AFA5) 40/P & S/1897 (4621) (See overleaf for notes and notes for use on trial.)

W A Freeman Major

W of.

Medical Offr's Certificate
K R (Can) para 557

I certify that I have this morning examined No: C [illegible] (Rank)
Gunn M (Name) of 6 CIRU and in my opinion he is

FIT to undergo trial by Court Martial.
UNFIT

Station

Date 5 Nov 44

To receive treat. for vals.

SGD [illegible] (Medical Offr)

E 3.

3 Nov 44

te Ginn's period of enlistment in the army is five years two months. His field service with the Cameron Highlanders of Ottawa stretches from 1939 to 1942. Category reduced to C2 making him unfit for the field. He later had his category raised to A. From April of this year he has been in the holding unit employed as an orderly room clerk. He has had domestic difficulties at home. His wife not being well. Suffering from gastric ulcers Wanted to go home and see his wife but as there was no leave for A Cat. men was unable to obtain it. He felt he had to see his wife so he took leave without consent.

Apprehended by C.M.P. and turned over to Cdn M.P. He asked to be able to see his wife and tell her he was being taken back and to leave her with what money he had. As this was refused he left custody. Returned to his wife left her with money and then returned and surrendered himself.

This man realizes that he has committed a crime in the army and as such must make retribution. He is not afraid of going to the field and asks for the opportunity of doing so. His record in the army of 4 years 3 (illegible) days service speak well for him as an average good soldier. He has had no previous Court Martials or serious offences. Faithless life in and U.K. can grow at a man's mind until he is not aware of what he is doing.

May it please the Court that this man be sentenced so as to atone for his crime but that it may be such that it will allow him to be of service to his country so that in the future he may go to the field.

G.T. Green Lt.
Defending officer

W.A. Freeman
Major.

Exhibit "A"

SUMMARY OF EVIDENCE

In the case of No. C-80898 Private Martin Joseph Taylor Dominic QUINN, of the CIC, on the strength of 6 Cdn Inf Bde Unit, a soldier of the Canadian Army Overseas.

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

First Witness for the Prosecution — Lt J.M.Lavallee, of the CIC, on the strength of 6 CINU, having been duly sworn, states:

"I am Asst. Adjt. of 6 CINU.
I produce the following documents relating to C-80898 Pte Quinn M.J.T.D.:
(a) Record of the Declaration of a Court of Inquiry d/11 Oct 44 showing Pte Quinn to be absent from 2300 hrs 16 Sep 44- certified to be a true copy. MARKED EXHIBIT "A".
(b) Certificate in accordance with AA Sec 153(1) (ii) of showing Pte Quinn was arrested at 2230 hrs 11 Oct 44. MARKED EXHIBIT "B".

The accused declines to cross-examine this witness.

J.M.Lavallee
(J.M.Lavallee)

Second Witness for the Prosecution — C-18698 Pte Leduc E., CIC, on the strength of 6 CINU, having been duly sworn, states:

"The accused, whom I recognize, was under close arrest and in my custody on 14 Oct 44 at Leeds. I left Gibraltar Barracks with him handcuffed to me and went to Leeds station. When we were in the train I found there was no place for us to sit side by side, so I had to take handcuffs off him and have him sit in front of me. In Wakefield, after the train was in movement, accused if he could go to the lavatory. Near the lavatory, a woman came between me and the accused. He took this opportunity to jump off the train and escape. This took place at 1115 hrs, 14 Oct 44.

The accused declines to cross-examine this witness.

E.Leduc
(E.Leduc)

Third Witness for the Prosecution — C-80818 Sgt Bruis J.P., CIC, on the strength of 6 CINU, having been duly sworn, states:

"When I was at the Canadian Club in Leeds on 17 Oct 44, I met the accused and asked him if his name was Quinn. He said, 'Are you the provost sgt of 6 CINU?' When I said I was, he then said, "I'm surrendering to you. I'm sorry about what happened on the 14th, but my wife was sick in bed and I had something to settle and hadn't had time to do it.' He then said his personal affairs were over and he was ready to go.' This was at 2145 hrs, 17 Oct 44."

The accused declines to cross-examine this witness.

J.M.Bruis
(J.M.Bruis)

The accused was then warned as follows: "Do you wish to make any 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 may 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 was taken down by me in the presence of the accused, and that Rules of Procedure 4(C), (D), (E) & (F) have been duly complied with.

K.E.Green
(K.E.Green)
Officer detailed to take this Summary of Evidence

Field
30 Oct 44

maf

Exhibit "B" W.J.F. Exhibit "A"

RECORD of the Declaration of a Court of Inquiry assembled at 6 C.I.R.U.

on the 11th day of October, 1944

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. C.20578 Pte Quinn, M.J.T.D. - CIC - 6 C.I.R.U.

DECLARATION

The Court declare that C.20578 Pte Quinn, M.J.T.D. Canadian Infantry Corps No. 6 Canadian Infantry Reinforcement Unit illegally absented himself without leave from 2300 hrs on the 15 th day of September, 1944 and that he is still so absent and that on the 16 th day of September, 1944 he was deficient and still is deficient of the following articles mentioned in the evidence in the amount of £3-1-6.

ARTICLES	NO.	TODAY PRICE	APPX VALUE
Battle dress blouse	1	$ 5.85	$ 3.94
Boots ankle	1	5.46	4.10
Drawers cellular	2	.86	.64
Shirts angola	1	2.03	1.52
Socks, prs	3	1.11	.78
Battle Dress Trousers	1	5.39	4.04
Vests, woollen	1	1.20	.90
Badge cap	1	.09	.07
Braces	1	.28	.21
Brush, shaving	1	.37	.26
Brush, shoe blacking	1	.26	.20
Brush tooth	1	.11	.09
Comb hair	1	.34	.26
Disck, identity sets	1	---	---
Razor	1	.06	.04
Vests cotton gym	1	.36	.27
Net camouflage helmet	1	.15	.11
Detectors individual prs	2	---	---
		$23.32	$17.43

Total in english money £3-1-6

Names of President and Members:

PRESIDENT	Capt J.M.	Duchaine	C.I.C.
Members	Lieut A.E.	Robb	C.I.C.
"	Lieut J.M.	Rose	C.I.C.

Signature of Commanding Officer Maj J. Gavan Power Colonel

Certified true copy 12 Oct 44 Signature of Officer having custody of original record

CAPT.
ADJT. 6 CDN. INF. RET. UNIT

Exhibit "C"

I certify that No. C/20578 PTE QUINN. M.

Unit. CAMERON HIGHLANDERS. LEEDS.

On. 11. OCT. 44 2230 HOURS.

Exhibit D.

W.A.F.

ARMY FORM B.236.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
020573	Pte	Quinn W.J.T.D.	6 Gun Tgt Prt Unit

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.—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 annexed to the proceedings.

† See para. 627, K.R., 1940.

* The summary herein should normally cover the period of two years preceding the offence to the date thereof, which event, and if no enlistment, from the date of enlistment to the date of the offence, is specified.

Instructions.—In the charge sheet or statement the entries for disciplinary fault are to be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For [illegible]	0 times	1 times.
For AA Sec 10(4)	0 times	2 times.
For AA Sec 15(1)	1 time	2 times.
For AA Sec 15(2)	0 times	1 times.
For AA Sec 18	0	0
For AA Sec 40	0 times	6 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 conviction† 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 71 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~~

~~imprisonment~~ ~~detention~~ ~~penal servitude~~ ~~imprisonment with hard labour~~ ~~imprisonment without hard labour~~ ~~detention with hard labour~~ ~~detention without hard labour~~ ~~penal servitude with hard labour~~ ~~penal servitude without hard labour~~ ~~imprisonment for life~~ ~~imprisonment for life with hard labour~~ ~~imprisonment for life without hard labour~~ ~~detention for life~~ ~~detention for life with hard labour~~ ~~detention for life without hard labour~~ ~~penal servitude for life~~ ~~penal servitude for life with hard labour~~ ~~penal servitude for life without hard labour~~ ~~death~~ ~~dismissal from the service~~ ~~dismissal with ignominy from the service~~ ~~cashiering~~ ~~dismissal from the service with ignominy~~ ~~dismissal from the service with disgrace~~ ~~dismissal from the service with ignominy and disgrace~~ ~~dismissal from the service with disgrace and ignominy

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.

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

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

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, 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.

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 3rd day of Nov. 1944

Jos. Bellerose Capt.
CAPT.
ADJT. 4 CDN. INF. RFT. UNIT

If the accused has served as a non-commissioned officer continuously, without reduction, to the present date:

Date of Promotion.

To the rank of _____ _____ years

To the rank of _____ _____ years

To the rank of _____ _____ years

(INSTRUCTION.—If any sentence as set out in the above paragraphs ceased to count for good conduct pay by virtue of A.C.I. 1042/43 para. 3 (3) (a) (b) (c) or (d) the fact should be stated here, together with the date on which the sentence was remitted or served out.)

Exhibit 1 in aff.

No. 650578 Name Quinn W.T.W.D. Sqn, Battery, or Company [illegible] Corps RASC Date of enlistment 2-9-39 GC Badges N/A Service or Proficiency Pay N/A 3/17 MFM 6

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine Sheet No 1 Signature OC Company, etc Character

Place	Date of offence	Rank	Dates of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Vollefjordur	16-8-40	Pte	1	AA Sec 19 Drunkeness	Pte Warren	10 days CB	14-8-40	Capt Pettigrew	
Alafoss Iceland	29-9-40	"	2	AA Soc 19 Drunkeness	A/Sgt Wattice Pte Dagg Pte Singer	168 hrs FP £5.00 fine	5-10-40	Capt Pettigrew	
Iceland	10-11-40	"		AWL 9 hrs Breaking into barracks without a pass	Cpl Sherwood CSM Tarvin	Forfeits 7 days pay	11-11-40	Major Cosh	Forf 1 day pay for AWL
Iceland	9-11-40	"		AWL 41 mins	L/C Martin " Aitchison	7 days pay	14-11-40	Major Cosh	
Surrey	21-5-41	"		Sec 15(1) AA AWL 1hr 15 mins	Sgt Weekes Cpl Strolger	3 days CB	23-5-41	Capt Boyd	
Aldershot	21-5-41	"		Sec 15(1) AA AWL 2 days 14 hrs 30 mins	Sgt Henderson Sgt Blair	7 days pay 14 days CB	3-9-41	Lt Col [illegible]	Forf 4 days pay for AWL

Certified true copy. [signature] Officer having custody of regtl books

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if under suspending with trial	By whom awarded	Remarks
Hartley Row	29-10-41	Pte		Sec 40 AA Failing to get UP	Cpl Campbell Pte Poirier	7 days CB	30-10-41	Capt H.C.Cook	
England	11-1-42	"		Sec 10(4) Breaking out of barracks	Cpl Campbell Pte Read	7 days CB	13-1-42	Capt C.H.Cook	
Pexhill	5-2-42	"		Sec 40 AA Failing to rise at reveille	L/Sgt King L/Cpl Waugh	14 days CB	6-2-42	Major Clingan	
Pexhill	6-2-42	"	(1)	Sec 9(2) AA Using insubordinate Lang.	Sgt Moore	7 days FP		Major Clingan	
			(2)	Sec 15(1) AA AWL 1 hr 45 mins					
Pexhill	6-2-42	"	(1)	Sec 15(2) AA Absent from church parade	Sgt Lecroix	7 days CB	9-2-42	Lt C.C.Hill	
			(2)	Sec 40 AA Failing to rise at reveille & making false statement to NCO					

X15 Certified true copy ..... Officer having custody of regtl books

..... CAPT.
ADJT., 6 CDN. INF. BDE. UNIT

No. 20578 Name Quinn M.J.T.F. Sqn, Battery, or Company — Corps CIC — Date of enlistment 2-9-39 — GC Badges N/A — Service or Proficiency Pay N/A — 3/17 MFM 6 (AFW 122) 40/FAN/136 (2nd)

Date of last entry in Company Conduct Sheet N/A — No. and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No 8 — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order suspending trial	By whom awarded	Remarks
Lodgewood	7-5-42	Pte		Sec 40 AA Failed to appear on parade	Sgt McManus	7 days CB	9-6-42	Capt C.C.Hill	
Uxbridge	4-6-42	"		Sec 40 AA Failing to rise at reveille	Sgt McManus	7 days CB	7-6-42	Lt W.C.Baird	
Lodgewood	1-7-42	"		Sec 40 AA Failed to turn in late pass	Sgt Partridge	5 days CB	3-7-42	Capt R.H.Armstrong	
Lodgewood	27-7-42	"		Sec 15(1) AA AWL 1 day 3 hrs	Sgt Ferris	14 days CB	5-8-42	J.Carson Capt	forf 2 days pay for AWL
Ewshott, Hants	8-10-42	"		Sec 15(1) AA AWL 6 hrs 55 mins	Sgt Holmes	7 days CB	6-10-42	Lt Col J.H Christie	forf 1 days pay for AWL
Field	27-6-43	"		Sec 15(1) AA AWL 15 hrs	Sgt Bray Documentary	5 days pay	30-6-43	C.F.Clingan Lt Col	forf 1 days pay for AWL
Field	14-7-44	"		BLOOD DOWN 200/80 [illegible]	Sgt C	J.H.Vhill Major	[illegible]	[illegible]	[illegible]
Field	31-8-44	"		AA Sec 15(1) AWL 11 hrs 1 hr	Documentary	forf 87 days pay 14 days CB	14-9-44	Lt Col C.F. Clingan	forf 12 days pay for AWL

Certified true copy ..... Capt ..... Officer having custody of nett book

ADJT., 6 CDN. INF. BTT. UNIT

LIST OF WITNESSES

In the case of M/D C-30576 Private Martin Joseph Taylor Dominic Quinn, of the CIC, on the strength of 6 Cdn Inf Bde Unit, a soldier of the Canadian Army Overseas.

PROSECUTION

Lt J.M.Lavallee, CIC, on strength 6 CIRU.
D-18826 Sgt Leduc E., CIC, on strength 6 CIRU.
D-5621D Sgt Burais J. ., CIC, on strength 6 CIRU.

DEFENCE

Nil.

Field
30 Oct 44

W.A.F.

LIST OF EXHIBITS

In the case of No C-80678 Private Martin Joseph Taylor Dominic QUINN, of the CIC, on the strength of 6 Cdn Inf Brt Unit, a soldier of the Canadian Army Overseas.

EXHIBIT "A"- Certified true copy of Declaration of Court of Inquiry d/11Oct 44.

EXHIBIT "B"- Certificate in accordance with AR Sec 163(1) (JJ) by Garrison Adjt, Gibraltar Barracks, Leeds.

Field
30 Oct 44

W A J.

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. G. T. GREEN.....

if he is available.

In the Field
30 day of Oct. 1944.

.....W. J. T. P. Quinn.....

WJF.

CERTIFICATE OF WAITING MEMBER

In the case of C20578 Pte M J TO. QUINN 4 CITR.
I hereby certify that there were no objections to the Members who constituted the Court which tried the s/m soldier by Field General Court-Martial. The Waiting Member ~~was~~ CAPT AA MICHAUD. was therefore permitted to withdraw.

W. A. Freeman ..... Major
( )
President.

In the Field

1944.

LIST OF OFFICERS FOR INSTRUCTION

In the case of _____
The following Officers attended the s/m Field General Court-Martial for instruction:-

W.A.F.

..... Major.
( )
President.

In the Field

1944.

4P-51

Pte. Quinn W.A.

RECORDED AT CMHQ IN AB 160, 4P-57.

FIELD GENERAL COURT-MARTIAL

(CP498 (In lieu of AFA8) W. P. & S. 8/1008 (20047))

Convened by Order by Brigadier J.E. Bernatchez Comdg 3 Cdn Inf Bde dated 8 Jan 45

ACCUSED.

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

Number.	(a) Prmnt R. (b) Apptmt. A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F88922	Pte.	William Augustus	Quinn	WNSR

PROCEEDINGS REVIEWED
10 Feb 45
[illegible]
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy. on (date(s)) 9 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2G-129

A1. The President, Members, waiting Member, ~~JA, if any,~~ and Offrs under instr, if any, assemble, and the Court is closed. (A.C. BARLOW, WAITING MEMBER, REPLACES MAJOR R. A.M. HOLT, EVALUATED)

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns to RPs. 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 A95, 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, 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(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

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

A3. The Court is opened. The accused is (are) brought before the Court. At 1315 hours trial commences.

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

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

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

~~The interpreter is sworn.(1)~~ ~~Do you object to~~ a shorthand writer? Ans ~~Yes~~ 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, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 148, 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	W.R. Bell	C of R
Member	Capt	R.E. Campbell	WNSR
Member	Lieut	F.S.J. Black	C of R
Judge-Advocate			
Prosecutor	Lieut	S.R. Gudzinski	WNSR
Defending Offr	Lieut	F.A.H. Archibald	WNSR

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 instr will be returned separately with proceedings for information of Conv Offr.
G. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused, F88922 Pte W.A. Quinn, before arraignment make(s) (~~has~~) no objection to (~~the~~) plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(2), 108), or as to the jurisdiction of the Court (RP 34, 35(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 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 fns 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 (~~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 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

F151 A5143

SCHEDULE.

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

Accused: F88922 Pte William Augustus Quinn WNSR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Charge	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 lieu of list see RP 44 fn 6.)

A4 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 B355 or AF B296.)

Time in confinement awaiting present trial—a total of 17 days, of which Nil 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 One year six months imprisonment

(Sgd) [illegible] 9 Jan 45 (Sgd) W.R. Bell 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(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(2) fn 6, 46(A), 51-56, 120, MML pp 759-786, 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 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 fn 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)~~ ES

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

Date 12 Jan 45 (Sgd) E. Bernatchez Brig
Commanding 3 Cdn Inf Bde
Confirming Officer.

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

Accused.	Date.	Signature of Offr.
F88922 Pte Quinn W.A. West NSR	14 Jan 45	[illegible] Capt. adjt West NSR.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening 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 [redacted] 3.

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

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

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

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 86, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court sic 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 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 (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty as to 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)
(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 A1, 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 paras 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. Omit B5 such para 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 thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate 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.(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. [redacted] 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 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

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

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, 107(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(2) (6), 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 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. Court Handing in 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(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(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as accused. Admitted in evidence and marked Ex E1 and Ex E2 respectively.(3)
(1. AA 155 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 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. Court hands in witness to document. No (2)
(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)
(1. AA 54(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 7(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, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 301, 330, 563-566, Overseas RO 309, 2323, MML p 80, 737-739. As to sentences assigned for civil offences by the law of England see AA 44(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564. 2. RP 30. As to release from arrest by Confirming Offr see KR Con 567. 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.

CHARGE SHEET

The Accused,
F88922 Pte William Augustus QUINN, West Nova Scotia Regt,
a soldier of the Canadian Army Overseas, CMF, when
on Active Service, is charged with,

1st Charge
Sec 15 (1)
Army Act — WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the Field, in Italy, at approximately 0800 hrs
24 Nov 44, absented himself without leave and
remained absent until surrendering himself to the
Regimental Police at 4 Cdn Rft Bn at approximately
0730 hrs 23 Dec 44 (Total time absent 28 days
23 hrs 30 min.

F C Hilts
(F C Hiltz) Major
A/Asst. Adjt. 5 Cdn Inf Bde

In the Field
30 Dec 44

"TO BE TRIED BY FIELD GENERAL COURT MARTIAL"

In the Field 31 Dec 44

E Bernatchez Brig
Commanding 5 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

CFA30 (In lieu of AFA5) 40/FGCM/1007 (Revised)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Can 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 61(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, Fns, RR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F88922	Pte		William Augustus	QUINN	WNSR

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) 8 Jan 45 endorsed by me, [redacted] "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; [redacted]

(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.

[redacted]

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

[redacted]

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

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	W R Pell	CYR

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	R E Campbell	WNSR
Lieut	O M Lacroix	RCCR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	F G H Black	CYR

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in Italy (Country.)

Date 8 Jan 45

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding 3 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

F 88922 Ft Quinn W.A.

Field

9 Jan 45

John

The Court opens at 1315 hrs 9 Jan 45
with waiting member Lieut F.S.A. Black
as a member replacing member.
Lieut O.M. Lacroix R.C.R. who was
evacuated as a casualty.

Prosecution.

Witness as to Character.

~~Name B33420~~ B32809 Sgt. Boyd D.P. having
hereinduly sworn states:

"I am B32809 Sgt. Boyd D.P. I am platoon
sergeant, 13 pl, C Coy, W.N.S. Regt. I know
Pte. Guinn in action when he was with the
A/Tk platoon at Point 59 in January '45.
This platoon detachment was attached to our Coy for
defensive purposes for possibly two or three
weeks. During that time Pte. Guinn
always conducted himself in a
soldierly manner." RP 8361 complied with

2nd Witness as to Character

F40231 Sgt Innis E.S. having hereinduly
sworn states:

"I am F40231 Sgt Innis E.S., platoon sergeant,
W.N.S.R. Pte. Guinn was in my section when
I was a section leader in Sicily and Italy
in my section he gave me no trouble
whatsoever. He always did what he was
told to do in action without any
complaining."

Q How long was Pte. Guinn under
your command?

A. During the whole Sicilian Campaign &
Q. What Coy were you serving with at that
time?

A. "B Coy.

RP 8361 has been completed

V

Plea for Mitigation of Punishment

I think the Court should consider the fact that Lt. Quinn has had a long term of active service and that it is evident that during this action he was definitely a soldier who could be depended upon to do a job. Lt. Quinn's private life as concerns his wife in Canada has been far from that of a harmonious relationship since his coming overseas. This fact went a long way in causing Lt. Quinn to behave in the way he did.

Exh. A1

SUMMARY OF EVIDENCE in the case of F88922 Pte William Augustus QUINN, West Nova Scotia Regimart a soldier of the Canadian Army Overseas, CMF, when on active service.

By the order of Major P E Hiltz, A/Comd, West [illegible]

Evidence taken upon oath.

1st Witness for Prosecution — Capt A J W Dyer, Adjt, West Nova Scotia Regiment, having been duly sworn states :-

I am Capt A J W Dyer, Adjt and officer in charge of Regimental Records for the West Nova Scotia Regiment. I produce as evidence in the case of the accused, F88922 Pte Quinn, W A, a certified true copy of the West NSR Part II Orders showing the accused as being an absentee as from 0800 hrs 24 Nov 44. I also produce as evidence in the case of the accused a certificate of Surrender under Army Act Sec 163 (1)(b) showing the accused to have surrendered himself to M67700 Cpl Bradley, J J , Regimental Police at 4 Can Bft Bn at approximately 0730 hrs 23 Dec 44.

Signed. [illegible]

The accused declines to cross examine this witness.

The accused having been duly cautioned as follows. "Do you wish to make any statement or to give evidence upon 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 that you give will be taken down in writing and may be given in evidence", declines to make a statement or to give evidence upon oath.

Certified that Rule of Procedure 4 (c) (d) (e) & (f) have been complied with.

Taken down by me, in the Field, in the presence and hearing of the accused this 30th day of December 1944.

In the Field
30 Dec 44

[signature] Capt.
(Officer taking Summary)

Last Order
No.....101
9 Dec 44

THE WEST NOVA SCOTIA REGIMENT
Part II Orders issued by
OC, 5th CHQ 2 Bch AAI

This Order
No.....102
12 Dec 44

"B" OTHER RANKS

6 ABSENT WITHOUT LEAVE

(R) AWL from 0800 hrs 24 Nov 44, still absent 0800 hrs 25 Nov 44 (1st day)

F68922 Pte Quinn, W A

(1) AWL from 0800 hrs 24 Nov 44, still absent 0800 hrs 2 Dec 44 (8th day)

F68922 Pte Quinn, W A

Signed,
F F Knight, Lt
for officer i/c
Cdr Sec CHQ 2 Bch AAI

Certified true copy from the Regimental Books in my custody this 30th day of December 1944

Officer i/c Regimental Records,
West Nova Scotia Regiment,

E-B

CERTIFICATE UNDER ARMY ACT Section 163 (1) (a)

I Lt. Col L J Flynn certify that No F88722

Rank PTE Name QUINN M.A of the

WEST NOVA SCOTIA. Regt surrendered himself

to K67700 CPL BRADLEY J.S (RP) of the 4 CDN RFT BN

at Guard Room on the 23-12-44 at approx 0730 hrs

as an absentee without leave ~~/ deserter~~.

HE WAS SOBER AND WEARING KINGS UNIFORM

Capt

Signature of Provost Marshall APM or other officer into whose custody the above named soldier was taken on arrest.

ARMY FORM B.256.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F66922	Pte	William Augustus QUIN	West Nova Scotia Regiment

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

The conduct sheets mentioned should be produced in court with this statement, but not attached to the proceedings.

† See para. 827, K.R., 1940.

* The numbers under these heads should correspond with those (if any) entered in the conduct sheets, otherwise being given in the case without offence to each entry, and in each paragraph special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Sec 15 (1)	6 times	13 times.
For Sec 19	1 times	3 times.
For Sec 40	1 times	times.
For	times	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.~~

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 NO days in civil custody, and 17 days in military custody, making a total of 17 days, of which NO days were spent in hospital.

5. The present age of the accused according to ~~his record of service~~ attestation paper is 27

6. The date of his ~~commission~~ attestation ~~as stated~~ in his ~~record of service~~ attestation paper is 8/8/41

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 N/A service.

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

10. The accused is in possession of, or entitled to, no military decoration or military award ~~(or is in possession of or entitled to wear any military decoration or award)~~. 1939-45 STAR 1939-45 WAR MEDAL

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

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

(Please see inside back cover) A.G.R.W. Ltd. Gp.698

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.

No. [illegible] Rank Pte Name Quirk, W.A. of West N.S. Regiment (or as the case may be).

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

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, 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
F.G.C.M.	24 Apr 44	Sec 15(1) A.A.	90 days F.P.	

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

Signed this 30th day of June 44

[illegible] Capt & Adjt
West Nova Scotia Regiment

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

In the rank of [illegible] Date of Promotion

In the rank of [illegible] years, [illegible]

In the rank of [illegible] years, [illegible]

In the rank of [illegible] years, [illegible]

(Insert date.—If any matter in any of the above paragraphs varied by record from the regimental book the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be inserted from such sources as are available and the paragraphs concerned amended accordingly.)

M.F.M. 6
(A.F.B. 1122)
40/P & /8156 (2965)

No. 58922 Name Quinn N. A. Sqn., Battery, or Company C Corps Date of enlistment G.C. Badges Service for Proficiency Pay

Date of last entry in Company Conduct Sheet 14-2-42 No. and date of last drunk One 20-9-41 Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of forfeiture of good conduct time awarded	By whom awarded	Remarks
Aldershot N.S.	2-4-42	Pte		Overstaying pass & remaining absent from 0600 hrs 4 Apr 42 until apprehended at 1445 hrs 4 Apr 42 (8 hrs 45 mins)	Lcpl Juliet 1/4 Pte Sugarde 1/4 Pte McElhaney B	One days pay & two additional days pay	6 Apr 42		
Aldershot N.S.		Pte		Granted embarkation leave		14 May 42 – 20 May 42			
Jasper Camp	4 Aug 42	Pte		A.W.O.L. 0830 hrs 4 Aug 42 until 0715 hrs 5 Aug 42 (22 hrs 45 mins)	Lcpl Littlejohn 1/2 Sgt Hunt Savoy	1 Days pay	6 Aug 42		
Jasper Camp	4 Aug 42	Pte		A.W.O.L. 0830 hrs 4 Aug 42 until 1810 hrs 5 Aug 42 (22 hrs 45 mins)	Lcpl Littlejohn 1/2 Sgt Hunt Savoy	1 Days pay	6 Aug 42		
Jasper Camp	10 Sep 42	Pte		Awarded 2 days pay on charge of R & D 1400 hrs 10 Sep 42 Do 2 days stoppage of pay	R.S.M. Lee	Forfeiture 2 days pay	11 Sept 42		

(P.T.O.)

Pte	Date of offence	Rank	Case of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Guild	15 Nov 42	Pte	Nil	W.O.A.S. a w.p. from 2200 hrs 16 Nov 42 to 0730 hrs 16 Nov 42 (2 stas absence 9 hrs 30 mins)	Sgt Strickland	14 days F.P. Forfs 14 days pay S.R. & O.	18 Nov 42		
	17 Nov 42			W.O.A.S. a w.p. from 0900 hrs 17 Nov 42 to 2230 hrs 17 Nov 42 (2 stas absence 13 hrs 30 mins)	Cpl Wasselenko				
Guild	21 Dec 42	Pte	1	W.O.A.S. First Charge A w.p. from 2200 hrs 21 Dec 42 to 2300 hrs 21 Dec 42 (absence 1 hr) A.A. Sec 15 (2) Second Charge A.W.O.L. from 2300 hrs 21 Dec 42 to 2215 hrs 22 Dec 42 (absence 22 hrs 15 mins) A.A. Sec 15 (2)	Sgt W Johnston Wpl A. Middleton Documentary Evidence Cpl Major E W Johnston	28 days F.P. 28 days pay S.R. & O. (1949) Fines £5.0	23 Dec 42		

M.F.M. 6
(A.F. B.122)
40/F & /8136 (1985)

No. 58422 Name Lance [illegible] Sqn., Battery, or Company [illegible] Corps [illegible] Date of enlistment [illegible] G.C. Badges [illegible] Service or Proficiency Pay [illegible] Character

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 O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	3 Jan 43	Pte		W.O.A.D. [illegible] from 0820 hrs 2 Jan 43 to 2220 hrs 2 Jan 43 (14 hrs)	Cpl Penny, LC Turner	5 days pay	7 Jan 43		
Field	27 Apr 43	Pte		W.O.A.D. [illegible] from 1800 hrs 27 Apr 43 to 0300 hrs 28 Apr 43 (9 hrs)	[illegible]	7 days pay	28 Apr 43		
Field	[illegible]	Pte	1st	[illegible]	[illegible]	2 R & R 14 & 7 D. 7 days pay	4 Jan 44		
Field	17 Apr 44	Pte		W.O.A.D. [illegible] from 0820 hrs 12 Apr 44 until 1230 hrs 16 Apr 44	Lieut Strickland	14 days pay	18 Apr 44		
Field	2 Apr 44	Pte		[illegible] W.O.A.D. [illegible] 7 days 17 hrs 30 mins	Documentary	90 days FP and 90 days pay	10 May 44		

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2 July 44	Pte	1	A.A. Sec 12 4. W.O.A.S. a.w.f. from 1800 hrs 12 July 44 until 2014 hrs 19 July 44 & when 2 days 10 Hrs 12 mins	Sgt Dyndale	28 days F.P. 28 days pay	20 July 44		Certified true copy from the Regimental Books of my unit. Capt. & Adjt. 1/12 Bn. 2 Regt.
Field	19 July 44	Pte	1	A.A. Sec 15 4. W.	Sgt	28 days F.P.	20 July 44		
Field	16 Aug 44	Pte	1	A.A. Sec 15 4. W.O.A.S. a.w.f. from 0800 hrs 16 Aug 44 until 1002 hrs 18 Aug 44 when 2 days 2 hrs	Sgt Mac Lead	14 days F.P. 28 days pay 14 D	26 August		
Field	9 Mar 44	Pte	1	W.O.A.S. Drunkenness, Sec 15 A.A. 2. W.O.A.S. a.w.f. from 1900 hrs 6 Mar 44 until 0200 hrs 9 Mar 44 & Sec 15 4. W. 3. Sec 40 A.A. Suspension of good conduct pay during period when absent from Unit & duties during Disciplinary period	Capt J.T.K. Ryder	14 days pay 28 D 14 days pay	9 Mar 44		

...F88922 Pte William Augustus QUINN
...est NovaScotia Highlanders

...Capt A J W Dyer - West NSR

...IL

...certified true copy of West NSR Part II Orders No 102 dated 12 Dec 44

Certificate of surrender under Sec 163 (i)(j) Army Act

...statement by the accused on to...s defending officer:
If I am to be tried by Court Martial on charges pending against me, I wish to have.....[illegible]..... to act in my behalf.

W.A. Quinn
(Signature of accused)

In the Field

This is to certify that I, F88922 Pte QUINN W.A. ..... of the West NSR have been given free access to copy of the Summary of Evidence, charge sheet, documents etc, relating to my trial by Court Martial

W.A. Quinn
(Signature of accused)

In the Field

4P-51

Certified true copy:

(DM Capt)

FIELD GENERAL COURT-MARTIAL

CF486 (1) (Pro. 38 AFA(2) 40 (1) & 41 (1) 1940) 4,388

Can Sec GHQ & Basation Area

Convened by Order of Brigadier J.M. Bernatchez Comd 3 Can Inf Bde dated 8 Jan 45

26 Jan 45

SCHEDULE.

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

Accused: F.88922 Pte William Augustus Quinn WNSR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Charge	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 lieu of kit see RP 44 fn 6.)

~~As present under sentence for~~ ~~beginning on date(s)~~ "WRP" (1)

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

Time in confinement awaiting present trial—a total of 17 days, of which Nil days were spent in hospital.(2)

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

Sentence Awarded by the Court: To undergo One year six months imprisonment.

(Sgd) ..... Judge-Advocate, if any. 9 Jan 45 Date awarded. (Sgd) "W.F. Fell Major" 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 ..... (Sgd) ..... Commanding .....

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

(For duties and powers see AA 54, 57, RP 3rd(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(C). 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 53, MML p 65. Quashing after promulgation: KR Can 572. 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:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.(1)~~ "pmp"

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

(Sgd) "P.E. Bernatcher Brig"

Date 12 Jan 45 Commanding 3 Can Inf Bde Confirming Officer.

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

Accused.	Date.	Signature of Offr.
F.88922 Pte Quinn W.A. West NSR	14 Jan 45	"A J W Dyer Capt". Adj West NSR.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ACCUSED.

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

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F.88922	Pte	William Augustus	Quinn	WNSR

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 9 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~Judge-Advocate, if any, and Offrs under instr, if any~~ assemble, and the Court is closed. Capt Black, waiting member, replaces Lieut Lacroix evacuated. "WRP"

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OF JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. 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 895, for oaths and instrs on how to record addresses, evidence, etc, which items are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(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.(3)

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

A3. The Court is opened. The accused is (are) brought before the Court. At 1315 hours trial commences.

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

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

A5. ~~Provided to accused: Do you object to ..... as interpreter. I am ..... "WRP"~~

~~The interpreter is sworn.(1) Do you object to ..... as shorthand writer. I am ..... "WRP"~~

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

(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, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 98, MML p 742.)

A7. The President, Members, ~~Judge-Advocate, 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	W.R. Fell	CPR
Member	Capt	R.E. Campbell	W N S R
Member	Lieut	F.G.J. Black	C A V R
Judge-Advocate			
Prosecutor	Lieut	G.R. Rudreski	W.N.S.R.
Defending Offr	Lieut	P.A.E. Archibald	W.N.S.R.

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 Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Div p 33.)

A8. The accused F.88922 Pte W.A. Quinn before arraignment make(s) (no) ~~not guilty~~ plea. "pmp"

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (AP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 13(3), RP 37), 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 fns to RsP cited. Insert in AA rules 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 (~~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 36, 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 minimum copies of CF 486 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 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 authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

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

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

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

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

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

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

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) 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.(5)

(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, on considering the accused's statement(s), 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 cleared to consider the statement. Deletes 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 1 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 paras 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 B3 to B5 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 thereon proceeds by completing such 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.(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 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 fns 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 AF5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

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

(1. RP 43, 117(A). See Notes in Part 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(2) (6), 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, call character witnesses.

(1. If evidence has already been given by accused on 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 E 1 and Ex E 2 respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 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.(2)

(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)

(1. AA 54(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 21 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and 70 governing, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 40. As to sentences see AA 44, 138, 182, RP 40-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2313, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 40 (5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see notice on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

COPY

"WRP"

CHARGE SHEET

The Accused,
F88922 Pte William Augustus QUINN, West Nova Scotia Regt,
a soldier of the Canadian Army Overseas, CMF, when
on Active Service, is charged with,

1st Charge
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the Field, in Italy, at approximately 0800 hrs 24 Nov 44, absented himself without leave and remained absent until surrendering himself to the Regimental Police at 4 Cdn Rft Bn at approximately 0730 hrs 23 Dec 44 (Total time absent 28 days 23 hrs 30 mins).

In the Field
30 Dec 44

Sgd "F.E. Hiltz"
(F E Hiltz) Major
A/Comd West N S R.

"TO BE TRIED BY FIELD GENERAL COURT MARTIAL"

In the Field
6 Jan 45

Sgd "P E Bernatchez", Brig
Commanding 3 Cdn Inf Bde.

Certified true Copy

Signature illegible
Capt
for A/J/A Regt Commdr.

"WRP"

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/P&A/1607 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate 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, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F.88922		Pte	William Augustus	QUINN	WNSR

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) 6 Jan 45 endorsed by me, ~~(or by an offr of my staff (or me))~~, "To be tried by Field General Court-Martial". "PEB"

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.)~~ "PEB"
(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.~~ "PEB"
(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.~~ "PEB"
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	W. R. Pell	CYR

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	R. B. Campbell	W.N.S.R.
Lieut	C. M. Lacroix	R 22 R

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	F.G.J. Black	CYR

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in Italy (Country.) "P.E. Bernatchez" (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 8 Jan 45 Commanding 3 Cdn Inf Bde.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

COPY

MEDICAL OFFICER'S CERTIFICATE "WJR"

ER (C/E) PARA SEV

I certify that I have this date examined,

No. F88922 Pte Quinn W A of the West N S R

and in my opinion is fit/~~unfit~~ for to undergo trial by Court-Martial.

Stationed : In the Field Sgd " J R Feindel, Capt

Date.... 9 Jan 45 ..... (Medical Officer.

The Court opens at 1315 hrs 9 Jan 44 with waiting member Lieut FGH Black as a member replacing member Lieut C.M. Lacroix R 22 R who was evacuated as a casualty.

Witness as to character

B.32809 Sgt. Boyd D.P. having been duly sworn states:

I am B.32809 Sgt Boyd D.P. I am platoon sergeant, 13 Pl, C Coy, WNS Regt. I knew Pte Quinn in action when he was with the A/Tk platoon at Point 59 in January 44. His gun detachment was attached to our coy for defensive purposes for possibly two or three weeks. During that time Pte Quinn always conducted himself in a soldierly manner.

R.P. 83 (b) complied with.

2nd Witness as to character.

F.40231 Sgt Innis E.S. having been duly sworn states:

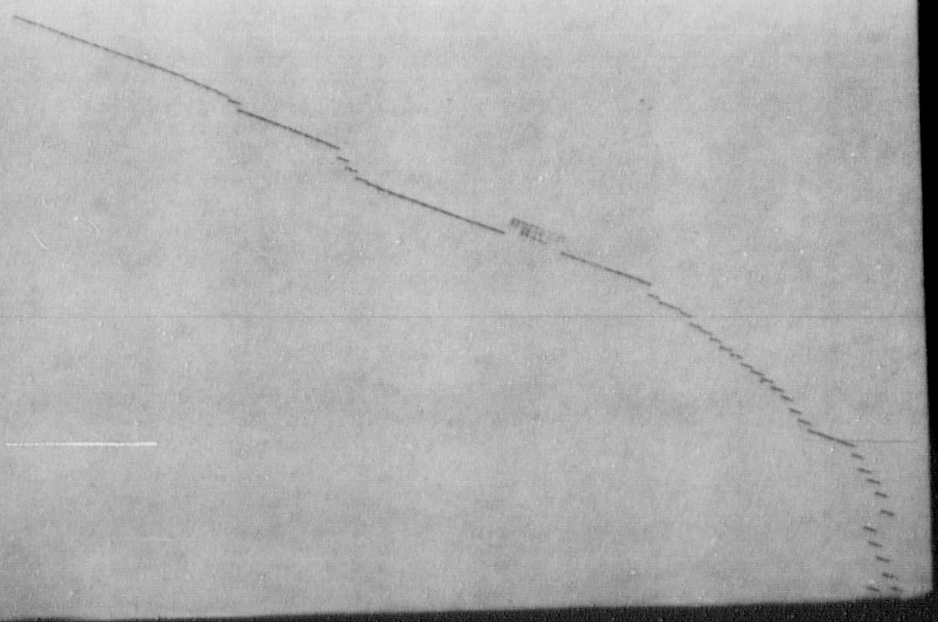
I am F.40231 Sgt Innis E.S. platoon Sergeant, W.N.S.R. Pte Quinn was in my section when I was a section leader in Sicily and while in my section he gave me no trouble whatsoever. He always did what he was told to do in action without any complaining".

Q. How long was Pte Quinn under your command?
A. During the whole Sicilian Campaign, Sir".
Q. What Coy were you serving with at that time?"
A. "B" Coy.

R.P. 83 (b) complied with.

Plea for Mitigation of Punishment "WRP"

I think the Court should consider the fact that Pte Quinn has had a long time of action, and that it is evident that during this action he was definitely a soldier who could be depended upon to do a job. Pte Quinn's private life as concern his wife in Canada has been far from that of harmonious relationship since his going overseas. This fact went a long way in causing Pte Quinn to behave in the way he did.



COPY

Exh A 1 "WRF"

SUMMARY OF EVIDENCE in the case of F88922 Pte William Augustus QUINN, West Nova Scotia Regiment, a soldier of the Canadian Army Overseas, CMF, when on active service.

By order of Major F E Hiltz, A/Comd, West NSR.

Evidence taken upon oath.

1st Witness for Prosecution

Capt A J W Dyer adjt West Nova Scotia Regiment having been duly sworn states:

I AM/ Capt A J W Dyer, Adjt and officer incharge of Regimental Records for the West Nova Scotia Regiment I produce as evidence in the case of the accused, F88922 Pte Quinn, WA, a certified true copy of the West NSR Part II Orders showing the accused as being absentee as from 0800 hrs 24 Nov 44. I also produce as evidence in the case of the accused a certificate of Surrender under Army Act Sec 163(i)(j) showing the accused to have surrendered himself to K67700 Cpl Bradley, J S, Regimental Police at 4 Cdn Rft Bn at approximately 0730 hrs 23 Dec 44.

Sgd " A J W Dyer, Capt."

The accused declines to cross examine this witness.

The accused having been duly cautioned as follows, "Do you wish to make any statement or to give evidence upon 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 that you give will be taken down in writing and may be given in evidence", declines to make a statement or to give evidence upon oath.

Certified that Rule of Procedure 4 (c) (d) (e) & (f) have been complied with.

Taken down by me, in the Field, in the presence and hearing of the accused this 30th day of December 1944.

In the Field
30 Dec 44

Sgd " R E Campbell, Capt"
Officer taking Summary.

Ex "A" "REC" "WRP"

Last Order No. 101 Dated 9 Dec 44

THE WEST NOVA SCOTIA REGIMENT
Part II Orders issued by
~~CDN SEC GHQ 2 ECH AAI.~~

This Order No. 102 12 Dec 44

"B" OTHER RANKS

6. ABSENT WITHOUT LEAVE

(k) AWL from 0800 hrs 24 Nov 44, still absent 0800 hrs 25 Nov 44 (1st day)

F.88922 Pte Quinn, W.A.

(l) AWL from 0800 hrs 24 Nov 44, still absent 0800 hrs 2[illegible] Dec 44 (2nd day)

F.88922 Pte Quinn W.A.

Signed.

F.P. Knight, Lt.
for Officer i/c
Cdn Sec GHQ 2 Ech AAI

Certified true copy from the Regimental Books in my custody this 30th day of December 1944.

"~~xxx~~ A J W Dyer Capt"
Officer i/c Regimental Records,
West Nova Scotia Regiment.

Certificate under army Act Section 163 (1) (3) "REC" "WRP"
Ex. "B"

I Col L. J. Flynn certify that No. F.88922
Rank Pte Name Quinn W.A.
of West Nova Scotia. Regt surrendered himself to.
K.67700 Cpl Bradley J.S. (RP) of the 4 Cdn Rft Bn
at Guard Room on the 23-12-44 at approx 0730 hrs
as an ~~absentee~~ absentee without leave.

He was sober and wearing Kings uniform.

"L. J. Flynn Lt Col.
Signature of Provost Marshall APM or other officer into whose custody the above named soldier was taken on arrest.

COPY E 1 "WRD" ARMY FORM B.256.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
F88922	Pte	William Augustus QUINN	West Nova Scotia Regiment "AJWD"

1. The following is a fair and true summary of the entries in the [redacted] Field 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.—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 marked to the proceedings.

† See para. 627, K.R., 1940.

* The offences here stated should correspond with the number of entries on the conduct sheets, but wherever doubt exists as to the most serious offence in each entry, and in any exceptional acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Sec 15(1)	6 times	13 times.
For Sec 19	[redacted] times	3 times.
For Sec 40	1 times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, Nil

or

[redacted] "AJWD"

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

"AJWD" [redacted]

3. The accused is not under sentence at the present time, *or* [redacted] "AJWD"

4. The accused has been in confinement, awaiting trial on the present charges, for NO days in civil custody, and 17 days in military custody, making a total of 17 days, of which NO days were spent in hospital.

5. The present age of the accused according to his "AJWD" attestation paper 27

6. The date of his [redacted] attestation specified in his "AJWD" attestation paper 8/8/41

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 N/A service.

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

10. The accused is in possession of, or entitled to, no military decoration or military award [redacted] CVSW and Clasp.

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

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A, dated , and in his regiment (or corps or department) the rank of N/A dated

(71452) 40-13602-119 320,000 4/41 A.A.& P.W. Ltd.,Gt.Bdge

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.

No. F88922 Rank Pte Name QUINN W A of West NSR Regiment (or as the case may be).

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

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, 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.
FGCM	24 Apr 44	Sec 15(1) AA	90 days FP	

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 9th day of Jan 45

Sgd A J W Dyer, Capt & Adjt
West Nova Scotia Regiment.

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

In the rank of ..... years.
Date of Promotion.

In the rank of ..... years.

In the rank of ..... years.

[illegible] —If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through; except that in the case of a trial by field general court-martial the particulars may be collected from such sources as are available and the paragraph completed accordingly.

No F88922 Name QUINN, W A | Sqn, Battery, or Company: C | Corps: "WRP" | Date of enlistment: E 2 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAM/128 (5488)

Date of last entry in Company Conduct Sheet: 14-2-42 | No and date of last drunk: Ors 20-9-42 | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC 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
Aldershot	4.4.42			Overstaying a pass & remaining absent from 0600 hrs 4 Apr 42 until apprehended at 1445 hrs 4 Apr 43 (8 hrs 45 min)	Cpl Tulot Pte Sparte Pte LeBlanc	1 days pay	6 Apr 42		1 days pay
Aldershot				Granted embarkation leave 14 May 42					
Jasper Camp				AWL 0820 hrs till 0715 hrs 4 Aug 42	L/Cpl Littlejohn	1 days pay	6 Aug 42		
Jasper Camp				AWL 0830 hrs - 1500 hrs 5 Aug 42	L/Cpl Littlejohn	1 days pay	6 Aug 42		
Jasper Camp				Sec 15 (1) AA absent from place of parade	RSM Caiges	2 days pay	7 Sep 42		

OTO

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	15 Nov 42			AWL, 2200 hrs 15 Nov 42 to 0730 16 Nov 42	Sgt Strickland	14 days FP 14 days pay			
	17 Nov 42			AWL from 0900 hrs 17 Nov to 2220 hrs 17 Nov 42	Cpl Wasselaskus				
Field				(1) AWL 1 hr (2) drunkenness (3) AWL 6 hrs 1 min)		28 days FP 28 days pay			
Field	5 Jan 43			AWL 0830 hrs 5 Jan 43 to 2230 hrs 5 Jan 43	Cpl Penny	5 days pay	7 Jan 43		
Field	27 Apr 43			AWL 1300 hrs 27 Apr 43 to 1430hrs 27 Apr 43	Cpl Blois	7 days FP			
Field				Drunkenness	QMS Hopper	7 days pay			

No F88922 Name Quinn W A | Sqn, Battery, or Company | Corps | Date of enlistment | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122)

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	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of Award or of order directing trial	By whom awarded	Remarks
Field				AWL 0830 hrs 12 Apr 44 to 1220 hrs 15 Apr 44	Cpl Strickland	14 days pay			
Field				Sec 15 (1) AWL 7 days 17 hrs 30 min		90 days FP 90 days pay			
Field				AA Sec 15 (1) AA AWL 0800 hrs 13 Jul 44 to 2015 hrs 15 Jul 44	Cpl Lynds	28 days FP 28 days pay			
Field				Sec 15 (1) AA AWL	Cpl Fox	28 days FP			
Field				Sec 15 (1) AA AWL from 0800 hrs 16 Aug 44 to 1000 hrs 18 Aug 44	Sgt MacLeod	14 days CB 28 days pay			

(FTO)

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				(1)Sec 19 AA Drunkenness (2)AWL 1000hrs 8 Mar 44 0200 hrs 9 mar 44 (3) Sec 40 AA	Capt J K Rhodes	14 days pay 1 days pay			

Certified true copy from the Regimental Books in my custody
2 Jan 45.
"A J J" Dyer Capt
Officer i/c Regt'l Records
Regt H.Q.

000137

PTE QUINN W.A.

Correspondence to be PINNED here.

* CORPS AT CMHQ IN AB 160 - 000-137

Quinn, WA

Army Form A.9.

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

PROCEEDINGS.

H27

A. 2

Order convening the Court.

On Active Service, this Ninth day of May, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde

[redacted], 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.

* Omit if not applicable.

*[I am unable to appoint:—

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

*(2. A Field Officer as President.)

for the following reasons, namely:—]

89

PROCEEDINGS REVIEWED

J C Campbell Major

21 May 44

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

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

President.

Rank.	Name.	Regiment.
Major	P Trudeau	R 22e R

Members.

Rank.	Name.	Regiment.
Capt	C E Bent	HQ 3 Cdn Inf Bde
Lieut	L P J Mongeon	3 CIB Sp Coy (SLI)

* 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 E L M Burns Brigadier

Commanding 3 Cdn Inf Bde

Convening Officer.

H27

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*)
F88922 Pte William Augustus QUINN, West NSR	First Charge Sec 15(1) AA	Guilty	Guilty. 28 days Detention Field Punishment No 2 and 28 days Forfeiture of Pay	I confirm the finding and sentence [illegible]

* 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) [illegible] Brigadier
Commanding 3 Cdn Inf Bde
Convening Officer (*c*)

(Signed) Fernand Fortier 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 initialled by him.

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

I certify that the above Court assembled on the 10th day of May 1944, 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)~~

* Omit, if not applicable.

were duly sworn.

Signed this 10th day of May 1944

Fernand Fortier, Major
President of the Court Martial.

* 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 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 or detention barrack until further orders.)~~

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

Signed this 17th day of May 1944

[illegible] Brig
Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) 25 May 44 (Signed) [illegible] Capt

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.

O.U. 47502/1507 30 M. 3/41 S.P.S./5101(2) Gp. 698/2

A

Army Form A 9.

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

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

Proceedings of a F. G. Court-Martial held at in the field

on the 10th day of May — 19 44 by order of

Brigadier D.E. Bernatchez, Officer

Commanding 3 C.I.B.

dated the 9th day of May — 19 44

President

Major A. Andreau
R 22 R & T

Members.

Capt G.E. Bent
H.Q. 3 C.I.B.

Lieut S.B.J. Morgan
#1 Coy. S.L.I.

Trial of* F 88922 Pte Quinn. W. A. W.A.S.R.

, ~~Judge Advocate~~

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 & 23.

The accused is brought before the Court.

Prosecutor,† Capt A.H. McLean - W.A.S.R.&T

Counsel‡ or defending officer† Capt J.J. Dayton - " "

At 10.40 o'clock the Trial commences.

The order convening the Court is read, and is marked A2, 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.* No.

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

3 Lineal Tuesday 9/5/44.

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

[illegible] Form A 9a.

B

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

~~The following officers (name) instruction are duly sworn.~~

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 76 (8) this fact should be here recorded.*

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

The medical officer's certificate is signed by the Brekdot, marked B 3 and annexed to the proceedings.

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

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

guilty *Answer.*

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

Answer.

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

Answer.

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

Answer.

The accused having pleaded Guilty to 1st 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.*

Fenard Tuesday, May

32

CHARGE SHEET

THE ACCUSED F88922 Pte William Augustus QUINN, West Nova Scotia Regiment, a soldier of the Canadian Army Overseas, A A I , on Active Service, is charged with

First Charge
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,,

in the Field, at approximately 1500 hrs 24 Apr 44 did absent himself without leave and remained absent until surrendering himself to F29714 Cpl Day N E Cpl of the Town Picquet at Jelsia at about 0830 hrs 2 May 44 (Total absence 7 days 17 hrs 30 min)

In the Field
6 May 44

R Waterman
.....
(R S E Waterman) Lt-col
Comd, West NSR

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
9th May 1944

E Bernatchez
.....
(J P E Bernatchez) Brig
Comd, 3 Cdn Inf Bde

B3

MEDICAL OFFICER'S CERTIFICATE

KR (CAN) PARA 557

I certify that I have this morning examined

No. F86922 Pte Quinn W.A.

of West N.S.R. and my opinion he is

fit to undergo Trial by Court Martial.

Station Station

Field

Date MAY 10, 1944

Medical Officer.

CC

Proceedings on Plea of Guilty.

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

*~~The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.~~

The accused F 88922 Pte Quinn. W. H. W&SR is found guilty of the charge.

†The summary (or abstract) of evidence is read, marked C.2 signed by the President, and attached to the proceedings.

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

Answer. The accused in mitigation of punishment says:— Nil.

~~[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]~~

Leonard Lindsay Major.
Prosecutor.

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

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

DD

F.S.

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

Question to the accused.

Yes

Answer.

F 39939 Sjt Zwicker JE. N, NS. R+t

Evidence as to character.

duly sworn.

Pte Zwicker belonged to the same coy. I was a sjt at the time, april 1942. While in Hong he carried heavy weapons, was good soldier and never got in any trouble from Apr 42 to Dec 42. Sailed with us and always proved a good soldier. He was 1st mans gun on Post on a Jerry tank. Up to the 27th August 1943 he was a good soldier.

above not cross-examined.

Forwarded
Trudeau
Major

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

F

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

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

Lieut A.H. McLean W.I.S.R. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* yes

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked F 2 & F 3 initialled 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.* the only two.

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.

Cross-examined by the accused.

[illegible]

Question to the accused.

Do you wish to address the Court? *Answer.* yes

Leonard Tuckey Major

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused

Sentence

F 88922. Pte Quinn W.A. of
the West N. S.R. to
~~Three Months~~ 90 days field punishment
and 90 days forfeiture of ~~pay~~ remand Friday May
President

C.2

SUMMARY OF EVIDENCE in the case of F88922 Pte William Augustus QUINN, West Nova Scotia Regiment, a soldier of the Canadian Army Overseas, A A I , on Active Service,

By order of Lt-col R S E Waterman, Comd West NSR

Evidence taken on oath.

First Witness for Prosecution

F29787 Cpl Strickland, D W, West Nova Scotia Regiment having been duly sworn states ,

I am F29787 Cpl Strickland, D W of 18 Platoon "D" Coy West NSR. While traveling in convoy in a TCV at about 1500 hrs 24 Apr 44, F88922 Pte Quinn, W A left my section without permission and remained absent until reported as under close arrest to our unit at 0830 hrs 2 May 44.

Signed D W Strickland

The accused declines to cross examine this witness.

Second Witness For Prosecution

F29714 Cpl Day, N E, West Nova Scotia Regiment, having been duly sworn states,

I am F29714 Cpl Day N E West NSR. On 2 May 44 I was Cpl of the Town Picquet in Jelsia. At approximately 0830 hrs the accused F88922 Pte Quinn W A reported to me at the Guard Room as being an absentee. I placed him under close arrest and returned him to the Unit Detention.

Signed N E Day

The accused declines to cross examine this witness.

Certified that Rule of Proceedure 4 (c) (d) (e) & (f) have been complied with.

The accused having been duly cautioned as follows, "Do you wish to make any statement or to give evidence upon 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 that you give will be taken down in writing and may be given in evidence against you, declines to make a statement or to give evidence upon oath.

Taken down by me, In the Field, in the presence and hearing of the accusedthis 6th Day of May 1944,

In the Field
6 May 44

(Officer taking Summary)

No. F88922 Name QUINN, W.A. Sqn., Battery, or Company C.I.C Corps Date of enlistment 8-8-41 G.C. Badges Service or Proficiency Pay N/A

M.F.M. 6 (A.F. B. 1177) 40/P & S/8136 (2965)

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A 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 directing trial to be held	By whom awarded	Remarks
Aldershot	4-7-42	Pte		Sec 15 (1) (a) A.A. W.O.A.S. A.W.L. 1600 hrs 4-7-42 To 1000 hrs 5-7-42.	Cpl Taylor W.S. " Le Blanc E.	1 days Pay.	6-7-42	Maj W.B. Mayo.	
Tarfer Camp	4-8-42	"		Sec 15 (1) (a) A.A. W.O.A.S. A.W.L. 0830 hrs 4-8-42. To 0930 hrs 4-8-42.	Sgt Little E. Sgt Hunt S.	1 days Pay.	6-8-42	Maj Gray R.A.	Fine 2 days Pay
Tarfer Camp	5-8-42	"		Sec 15 (1) (a) A.A. W.O.A.S. A.W.L. 0830 hrs 5-8-42. To 1300 hrs 5-8-42.	Sgt Little E. Sgt Hunt S.	1 days Pay.	6-8-42	Maj Gray R.A.	
Tarfer Camp	17-9-42	"		Sec (2) A.A. Absent Taken Place of Parade	~~2 Sgt Hunt S.~~ Pte A.E. Taylor.	2 days Pay.	17-9-42	T.R. Gray Major R.A.	
Field.	12-11-42	"		Sec 12 (1) (a) W.O.A.S. A.W.L. 2330 hrs 12-11-42. To 0730 hrs 14-11-42.	Sgt Sweetland.	14 days. F.P. 14 " Pay.	15-11-42	A.B. Noble Lt Col	Fine 2 days Pay.
	12-11-42.			(2) Charge A.W.L. 0730 hrs 12-11-42 To 2230 hrs 12-11-42.					
Field	21-12-42.			~~(2)~~ Sec 15 (1) (a) A.W.L. 2200 hrs 21-12-42 To 2300 hrs 21-12-42.	Sgt Johnstone.				

Place	Date of offence	Rank	Class of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				2nd charge.					
Field	22-12-42.	Pte		AWL. 1800 hrs. 22-12-42. To 1201 hrs. 22-12-42.	Cpl Myers. E.	28 days F.P.	23-12-42.	AB Noble	Forfeit 1 days Pay.
					Sgt Johnstone.	28 " Pay.			
				(3) Charge) Sec 15 AA. Drunkenness.	Major DA. Riddleston	Fined £5 0 0		AB Noble.	
Field	3-6-43.	"		Sec 15 (1) AA. AWL. 0731 hrs 2-6-43 1230 hrs 3-6-43	Sgt Downs. Cpl Penney.	3 days Pay. 7 days F.P.	7-6-43.	P.H Stokelin'e	Mpk.
Field	27-4-43	"		Sec 15 (1) AA. AWL. 1800 hrs 22-4-43 To 1430 hrs 27-4-43.	Cpl Blais D.	7 " Pay.	29-4-43.	W.C. Lawson	Lt. Col
Field	1-1-44	"	1	Sec 15. AA. Drunkenness.	Cpls Hopper. W.	7 " Pay.	1-1-44.	R.E. Patterson	Lt Col.
Field	12-7-44	"		Sec 15 (1) AA. AWL. 1800 hrs 12-7-44 To 1230 hrs 13-7-44	Pte Strickland	14 days Pay.	18-7-44.	R.S.E. Patterson	Lt. Col.
Field	7-3-44	"	2	Sec 15. AA. Drunkenness.	Capt S.K. Rhodes	1 days Pay (AWL)			
					Sgt Evans D.W.E.	14 " Pay.	9-3-44.	R.S.E. Patterson	Lt. Col.

Certified true Copy. Capt
C/O Records

E 3

No F88922 Pte Quinn, W A

Sec 15 (1)	3 entries	Sec 15 (1)	11 entries
Sec 19	2 entries	Sec 19	3 entries

F88922 Pte Quinn, W A

1/2

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

10th May

Forwarded Tuesday Mays

4G-3. Case #2.

Cfw. Quinney J B.

See NNN-38 for next case

SCHEDULE.

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

Accused : M-35608 Cfn Quinney, J.B. 1 COMCRU

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Not 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 lieu 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 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 0 days, of which Nil 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 One Hundred and Twenty (120) days.

(Sgd) ..... 22 Nov 44 (Sgd) .....
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(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) 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 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 fn 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 order.~~ (1) Nil
(1. AA 57A. Delete if not used.)

Date 27 Nov 44 (Sgd) J. C. STEWART, Brigadier, Commanding "C" Corps Reinforcement Unit
Commanding Confirming Officer.

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

Accused.	Date.	Signature of Offr.
M. 35608 Cfn Quinney J.B.	27 Nov.	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED - 7 DEC 1944 - A.G. BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160 40-3

FIELD GENERAL COURT-MARTIAL

CPA86 (In lieu of APAB1 40/P & S/1688 (E) (44) 4/38B

Convened by Brig JC Stewart, CBE, DSO Comd "C" Gp, CRU dated 21 Nov 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) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
M-35608	Craftsman	Jack Buster	QUINNEY	1 COMERU

PROCEEDINGS REVIEWED
JCSC Tofts Reprint Unit
7 Dec 44
REVIEWING OFFICER BRANCH CMHQ.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 22 Nov 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 INITIALLED BY PRES OR 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 occurs, see form for GCM in MML pp 747 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 A65, for oaths and cautions on how to record addresses, evidence etc, which insets 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(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(4)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1402 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(B), RP 80 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

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

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans 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, 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.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	K. M. Mclean EDIC	HQ CRU
Member	Capt	B. C. Nutting	2 CANS
Member	Lieut	W. H. Cyclone	1 CDN WRECE
Judge-Advocate	Lieut	M. W. Pedrick	1 COMERU
Prosecutor	Lieut	B. D. Jamieson	1 COMERU
Defending Offr	Lieut	W. A. Cox	1 CARU

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans Yes (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI 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), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or as to one of several accused charged jointly to be tried separately (RP 16, 71), such pleas, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB recds 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 (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 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening 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 instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*ii*) ; *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* 85-85 ; *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 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.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3. MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) 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....., 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 paras 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 B4 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 C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate 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 .(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 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. I wish to make a statement. Do you intend to call witnesses on your behalf ?
Ans. My CO. 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 fns 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 AP5. 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(e).*)

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) 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) (c), 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. I will make a statement & call witnesses.
(*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(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. C and Ex. D respectively.(3)
(*1. MFB 355 or MFB 286. 2. MFM 6. 3. RP 46, 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. Not Guilty sir. .(2)
(*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)
(*1. AA 54(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 J.A., if any.(2)
(*1. When several accused tried separately 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 48. As to sentence, see AA 44, 138, 185, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2325, MML p 80, 737-739. As to sentences consigned 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(1B), 68(7), KR Can 564. 2. RP 50. As to release from arrest on Confirming Offr see KR Can 567. 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.

H.Q. CDN RFT UNITS

23 NOV.44

COMD
"C" Group,
CRU

FGCM - 22 Nov.44
M-35608 Cfn. QUINNEY, J.B.- 1 COMERU .

1. Herewith m/n proceedings.

2. The Court respectfully draws the attention of the confirming officer to the evidence of the accused, in that he has tried to transfer to the Paratroops and the Infantry. Because of this man's "A" category, appearance, and desire, the Court recommends that he be released on suspended sentence and transferred to Infantry forthwith.

(E.M. Miller) Major,
President of the Court.

Copy to:

O i/c Admn

CHARGE SHEET

The accused, No. H-35608 Craftsman Jack Buster QUINNEY, Royal Canadian Ordnance and Mechanical Engineers, 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
15(1)
ARMY ACT

"WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE"

in that he

at No. 1 Canadian Ordnance and Mechanical Engineers Reinforcement Unit, Bordon Hants, absented himself without leave from 2200 hours 26 September 1944, until surrendering himself at 2355 hours 16 November 1944. (Total time absent (51) fifty-one days, (1) one hour, (55) fifty-five minutes.)

Harold M. Bailey .....Colonel
(Harold M. Bailey)
Commanding Officer

18 November 1944 — No. 1 Cdn Ord & Mech Engs Rft Unit

To be tried by Field General Court Martial,

J. Stewart Brigadier,
Commander, "C" Group, Cdn Rft Units.
(Convening Officer)

Bordon, Hants.
21 Nov 44.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any 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 1st. 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, 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.
M-35608	Cfn		Jack Buster	QUINNEY	1 COMERU

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) this date endorsed by me, "~~[illegible]~~ 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; (~~[illegible]~~)
(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. ~~[illegible]~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

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

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	W.B. NUTTING	5 Cdn Artizan Works Coy
Lieutenant	~~E. MILLER~~ W.H. Glover	1 Cdn Sub Wksp RCEME

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 England (Country.)

Dat 21 Nov 44

(Signed personally. RP 105 fn 2.)

Brigadier, (Rank.)

Commanding "C" Group, Cdn Rft Units, Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 96 (1st Rev of AFA 2) 40/P & S/1667 (8142)

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

I certify that I have this morning examined No. M-35608 (Rank) DUNNEY T.B. (Name)
of NO.1 C.O.R.U. and in my opinion he is fit to undergo
trial by Court Martial.

Station Badminton

Date 22 Nov. 44.

Sgd. J.M. Robertson Capt
(Medical Officer)

Medical Officers' Certificate
K.R. (Can) para 557

F.G.C.M. IN THE CASE OF

M-35608 Cfn. QUINNEY, J.B. 1 COMERU

- P R O S E C U T I O N -

FIRST WITNESS
Lieut. J.P. GAYNOR, on strength of No.1 C.O.M.E.R.U. having been duly sworn states:

Q. Do you know the accused?
A. No sir.

Q. Do you mean that you don't know him personally?
A. Yes I know him just to see him.

Q. What is this?
A. This is a Declaration of the Court of Inquiry relating to the accused.

No Cross-Examination.
DECLARATION IS EXAMINED BY THE COURT AND ADMITTED AS EXHIBIT "A"

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

SECOND WITNESS
B-52912 L/Cpl. FRANCEY, H.L. on strength of No.1 COMERU having been duly sworn states:

Q. Do you recognize the accused?
A. Yes sir.

Q. Have you any evidence to submit to the court in regard to the accused in this charge of AWL?
A. Nothing sir, except that he report into me at 2355 hours on Nov.16 1944, when I was in charge of the Guard Room.

Q. How was he dressed?
A. He was properly dressed.

CROSS EXAMINATION

Q. Can you tell me the exact words the accused used when he reported into you at the Guard Room?
A. Yes sir, He said " I am reporting in from after being on the loose".

Q. Are you sure he used the word "loose".
A. Yes sir.

CASE FOR THE PROSECUTION IS CLOSED.

- D E F E N C E -

FIRST WITNESS
L-59638 Cpl. FAHLMAN, L.C. on strength of No.1 COMERU, having been duly sworn states:

Q. What is your job at 1 COMERU?
A. I am postal clerk.

Q. You deal particular in what?
A. In the distribution of parcels.

Q. Where were you on duty on the 10 Nov.44
A. In the Post office yes sir.

Q. Explain how a soldier gets a parcel from your PO?
A. When he comes in to draw a parcel he must produce his Part 1 Pay Book for identification and then sign for the parcel on a Parcel Card, with the date he receives the parcel

Q. Do you remember Quinney getting a parcel on the 10th Nov.44?
A. Yes sir.

Q. What time of day was it?
A. It was approximately 6 o'oclock.

Q. Did he produce his pay book?
A. Yes sir.

Q. Did he put the proper name on the parcel card?
A. Yes sir

Q. And did he put the proper date on the parcel also?
A. Yes sir.

Q. Have you the card with you?
A. Yes sir(And shows it to the court)

Q. Are all the signatures on the card the same?
A. Yes sir.

CARD IS EXAMINED BY THE COURT AND MARKED EXHIBIT "B".

WIT: I have to return this card to the PO?

A COPY OF THE CARD IS MADE BY THE COURT AND THE ORIGINAL IS HANDED BACK TO THE WITNESS.

CROSS EXAMINATION

Q. What check is made regarding personnel producing proper identification? As to whether they are onleave, duty or otherwise?
A. There is no check sir, but as along as a man is AWL the parcels are left on the rack.

Q. There is no way that you could tell me that you would know whether a man is AWL or not?
A. I would not know sir.

QUESTIONS BY THE COURT

Q. Was it you that handed the parcel to the accused?
A. Yes sir, I was on duty that night and he asked me if there was anything for him, I then asked him for his part 1 Pay book.

Q. Why is that you remember this person in particular?
A. His name is an unusual one, and I was not very busy at the time.

Q. Did you know the accused before?
A. I had never seen him before.

Q. These parcles that you handed him that night were the only parcels on the card?
A. Yes sir.

Q. When you say that these signatures are alike, were they not both written at the same time?
A. Yes sir.

Q. Did you compare them with the signature on the pay book?
A. No sir.

REEXAMINATION BY DEFENDING OFFICER

Q. Do you remember Cfn QUINNEY getting a parcel?
A. I remember Cfn QUINNEY getting a parcel quite distinctly.

Q. Do you remember the accused getting a parcel?
A. I remember the name, but I could not say whether it was the identical man.

Q. My question is "Do you remember this man himself getting a parcel?
A. No sir, but the identification was okay.

STATEMENT BY THE DEFENDING OFFICER ON THE FINDING

I would just like to say that the Defence has proven that at one time when the accused was supposed to be absent, he was in the Camp.

NO REPLY BY PROSECUTOR

THE COURT WILL BE CLOSED TO CONSIDER THE FINDING

THE COURT REOPENS AND THE PRESIDENT ANNOUNCES THAT THE ACCUSED HAS BEEN FOUND GUILTY OF AWL

STATEMENT BY THE ACCUSED (NOT ON OATH)

Q. What is your Medical Category?
A. Category "A"

Q. When did you enlist?
A. 15 Jun 41

Q. When did you come overseas?
A. 12 Dec 42.

Q. What is your job in the army?
A. Electrician.

Q. How do you feel about your present job?
A. I tried to get out of COMERU twice by applying to the paratroops or infantry. I wanted to get into a fighting unit.

Q. When did you apply for transfer?
A. Actually I have been trying both in Canada and overseas.

Q. What is your present status as an Electrician?
A. Group "C"but not drawing tradespay, as I have not been in the field.

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

CHARACTER WITNESS

FIRST WITNESS
D-11745 Sgt. HARRIS, A.G. on strength No.1 COMERU having been duly sworn states:-

Q. How long have you known the accused?
A. One and a half years.

Q. Did he work with you at one time?
Yes Sir.

Q. Tell us what you know about his work?
A. He is a good worker, conscientious, and I have had no trouble with him. He seemed to be honest and very friendly.

Q. What did the other men think of him around the Unit?
A. They thought very well of him sir.

NO CROSS EXAMINATION

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

PLEA IN MITIGATION NOTE E-3

Read and attached to proceedings.

THE COURT WILL BE CLOSED TO CONSIDER THE SENTENCE

22 Nov 44

Address to the Court
on behalf of M 35608 Gnr. Quinney J.B.
by his Defending Officer

Gentlemen:

1. If the Accused is found guilty as charged, I submit that there are factors in this case which should mitigate his punishment.

2. According to the evidence, his character is beyond reproach and his work has also been vouched for. His M.F.M.C. does not show a bad record considering his three and a half years service. And, in fact he seems to have paid more than amply for his past actions.

3. The Accused is an A category man and one who is keen to get into the fighting. Not content to wait his turn as a reinforcement he has volunteered for both the parachutes and the infantry in order to get to the fighting front.

4. It can well be understood how a long period of comparative inactivity ~~to a man of this sort~~ would make ~~him~~ restless and discontented with his present role in the army.

5. The main ambition of this man is to do what he signed up for — to fight. Consequently, if he is given a severe punishment at this time, it will not only discourage his ardour, but will at the same time deprive

OVER.

the

the Canadian Army of an experienced and efficient soldier in a time of need.

Thank you Gentlemen.

Lt. Col. Cox Dir. I.C.A.R.C.
Defending Officer.

EXHIBIT A

Army Form B 115.

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 BORDON, Hants on the 19 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. M-35608 CFN QUINNEY, J.B.

DECLARATION.

The Court declare that M-35608 Cfn Quinney J.B., RCEME, on strength of No 1 Cdn Ordnance and Mechanical Engineers Reinforcement Unit, did illegally absent himself without leave at Bordon Hants at 2200 hrs 26 September 1944 and that he is still so absent and that on 19 October 44 he was deficient the articles of clothing and equipment listed on the attached sheet and of the value stated.

PRESIDENT _____ Capt
(M.A. Reid) #1 C.C.M.E.R.U.

MEMBERS _____ Lieut.
(P.P. Geyser)#1 C.C.M.E.R.U.

Names of President and Members _____ Lieut.
(M.N. Joubert)#1 C.C.M.E.R.U.

Signature of Commanding Officer _____ Col.
(Harold M. Bailey).

CERTIFIED TRUE COPY.

_____ Capt.
Signature of Officer having custody of the Original Record. (M.A. Reid)

(15998) W1.29992/1865 150,000 1/41 A.& E.W.Ltd. Gp.698
(17999) W1.11504/173 250,000 5/41 Poona/3111/54

No 1 GDR GND & MECH ENGRS RELEF UNIT

CERTIFICATE OF KIT DEFICIENCIES

No 19604 Gnr GUINNEY, J.D.

I was present at the Kit Inspection and checked the kit of the accused on 19 Oct 44, and found that he was deficient the following articles.

ARTICLES	QUANTITY	FULL VALUE £	s	d	75% O/O 4585 £	s	d	TOTAL CDN
Battledress blouses Serge	1	1	3	6	0	17	8	$ 3.94
Battledress Trousers Serge	1	1	4	1½	0	18	2	4.04
Boots Ankle prs	2	2	8	10	1	16	8	8.18
Cape Field Service	1	0	2	6	0	1	10	0.42
Badges Cap RCOC	1	0	0	4½	0	0	3	0.06
Braces prs	1	0	1	4	0	1	0	0.23
Combs hair	1	0	0	2	0	0	1½	0.03
Belts waist web MK patt'37	1	0	3	4	0	2	6	0.56
Blankets GS (1098)	1	0	13	9	0	9	16	2.30
Mug enamelled drinking 1 pt	1	0	0	7	0	0	5	0.10
Vests Cotton Gym	1	0	1	7	0	1	2	0.26
Bags Ration	1	0	0	2	0	0	1½	0.03
TOTAL		6	0	3	4	10	3	20.15

Prices are per O.R.O. 3999 and O.R.O. 4585

Price of Bags Ration obtained from D.D.O.S. Office.

Lieut

C.O. - No 1 C.G.M.P.U.

a/

M 35608 QUINNEY J B

Date	Parcel No	Quantity	Signature	Date
2-10-44	PCL	1	J B Quinney	10/11/44
2-10-44	AYA32702	300	J.B. Quinney	10/11/44

Certified copy of original cond
"Marked B" and returned to Witness
Heavy original Parcel record.
J Glen Russell
Pres.

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).
M-35608	Private	John Buster QUINNEY	No.1. C.O.M.E.R.U.

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, promulgations 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 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 A.A., Sec 15(1) ..... 3 ..... times.

For A.A., Sec 11 ..... 1 ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet ..... 5 April 43 .....

Date of last entry in Field Conduct Sheet ..... 25 April 44 .....

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

*Strike out if not applicable.

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

4. The accused has been awaiting trial on the present charges for N.i.l. days in civil custody; and for 6 days in military custody, i.e., N.i.l. days in open arrest, 6 days in close arrest; of which N.i.l. days were spent in hospital.

5. The present age of the accused is 24 Years 16 — 28

6. The date of his ~~enlisting up for military service~~ attestation is 5 June 1941

7. The service which the accused is allowed to reckon is 5 June 1941

†State the military decorations (if any) held by accused.

8. The accused is in possession of †

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 ..... N/A	.....
In the war substantive rank of ..... N/A	.....
In the acting rank of ..... N/A	.....

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

Wt. 13479/2887 30,000 5/44 31-452 T.Ltd. Forms/B.296(War)/2

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
F.G.C.M.	Field 25 Apr 44	A.A. SEC 15(1) A.W.L.	8 months detention. (2)months remitted by Comd 4 Cdn Armd Bde	57 days remission

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 22nd day of November 1944

M.B. Hartley Lieut
CAPT & ADJT
NO.L. CDN GRD & MECH ENGRS REINF UNIT

MFM 6
(AFB 122)
40/PAM/139 (3488)

No. M-35608 Name QUINNEY, J.B. Sqn, Battery, or Company — Corps R.C.O.C. — Date of enlistment 5-6-41 — GC Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No 1. — Signature OC Company, etc W.J.Gibson Capt.

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 - 18-1-43 - Last entry - 30-9-41 - No cases of drunkenness					
Field	5Apr43	Pte.		WOAS - Absenting himself without leave from 1400 hrs 5 Apr 43 to 0950 hrs 12 Apr43 Total time absent 6 days 19 hrs 50 mins. AA Sec 15	S/Sgt Bell Cpl Konkle	12 days Field Punishment.	12Apr43		Forfeits 6 days pay under FR&I 149 and Forfeiture under sentence.
Field	24Nov43	Pte		WOAS Neglecting to obey Part 1 Order No. 48 para 10 d/21Oct43 in that he was improperly in the CWAC Lounge which is "Out of Bounds" at that time according to Part 1 Order No. 48 para 10 d/21 Oct43 AA Sec 11	Capt. E. ENGLISH (CWAC)	3 days C.B.	23Nov43	Lieut.E.C. DUDGEON	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names & Witnesses	Punishment awarded	Date of award or if order directing trial	By whom awarded	Remarks
Field	9Jan44	Pte		AA Sec 15(1) WOAS AWL from 2359 hrs 9Jan44 until 0830 hrs 26Jan 44 (Absence 16 days 8 hrs 21 mins)	CSM Murchison Documentary	Awarded 28 days F.P. with forf of pay FR&I 149(1)b	26Jan44	Major W.E.Bawden	Forf 17 days pay FR&I 149(1)a Tot. Forf 45 days pay
Field	12Feb44	Pte		AWL from 0800 hrs 12Feb44 until 0800 hrs 15Feb44 (3 days) AA Sec 15(1)	AQMS McMullen, H.D.	21 days F.P. & 21 days pay	15Feb44	Major J.H.Mellor	Forf 3 days Pay FR&I 149(1)(a)
Field	18Mar44	Pte		AWL 1 day 14 hrs AA Sec 15(1)	S/Sgt Cozen S.D.	28 days F.P. 8 dys Forf. Pay	20Mar44	Major J.H.Mellor	Forf 2 days pay.
Field	25Apr44	Pte		AWL AA Sec 15(1) AWL from 1600 hrs 25Apr44--2020 hrs 13May44 (absent 18 days 4 hrs 20 mins)	CSM BYE B.J.	Det. 2 mos. FGCM Remitted by Comd. 4 CDN ARMD BDE	21May44	COMD. 4 Cdn. Armd Bde.	Close arrest 6 dys Forfs 6 dys pay FR&I 159(1)(c)(i)
									Forf 19 days Pay FR&I 149(1)(a)
				Remission of sentence 57 days 22 Sep 44.					Forf 184 dys pay FR&I 149(1)(b)

CERTIFIED TRUE COPY

M.B. Gray Lieut

.....OFFICER HAVING CUSTODY OF ORIGINAL DOCUMENT.

ASST. ADJT. NOV 18 1944

No. 1 COMERU

SUMMARY OF EVIDENCE

Summary of Evidence in the case of No. B-35608 Craftsman Jack Buster QUINNEY, RCEME, 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

Lieutenant J.P. Gaynor, RCOC, on the strength of No. 1 C.O.M.E.R.U., an officer of the Canadian Army Overseas, having been duly sworn states:-

I am Drafting Officer of No. 3 Company, Holding Wing, No. 1 C.O.M.E.R.U. I produce a copy of the Record of the Declaration of a Court of Inquiry on the illegal absence of the accused, which is marked, "Exhibit A"

The accused declines to cross examine this witness.

.....J.P. Gaynor Lieut.

Second Witness for the Prosecution

No. B-52912 L/Cpl Francey, H.L., RCEME, on the strength of No. 1 C.O.M.E.R.U. a soldier of the Canadian Army Overseas, having been duly sworn states:-

I was N.C.O. in charge of No.1 C.O.M.E.R.U. Guard Room on 16 November 1944. At 2355 hours the accused, whom I now recognize, reported to me as having been absent without leave. He was sober and properly dressed.

The accused declines to cross examine this witness.

H.L. Francey. L/Cpl.

The accused was cautioned as follows:-
"Do you wish to make any statement, or give any 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 any statement and reserves his defence.

.....J.B. Quinney

I certify that the foregoing Summary of Evidence, consisting of (1) 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.

W.M. Jedwab. Lieut.
(W.M. Jedwab)
Officer Detailed to take Summary of Evidence.

SUMMARY OF EVIDENCE IN THE CASE OF

B-35608 Craftsman Jack Buster QUINNEY

R.C.E.M.E.

No. 1 CANADIAN ORDNANCE & MECHANICAL ENGINEERS REINFORCEMENT UNIT

LIST OF WITNESSES

PROSECUTION

(1) Lieut. J.P. Gaynor No. 1 C.O.M.E.R.U.

(2) B-52912 L/Cpl Francey H.L. No. 1 C.O.M.E.R.U.

DEFENCE

NIL

LIST OF EXHIBITS

(a) Report on the Declaration of a Court of Inquiry on the illegal absence of a soldier.

Harold M. Bailey Colonel
(Harold M. Bailey)
Commanding Officer
No. 1 Cdn Ord & Mech Engs Rft Unit

18 Nov. 1944

In the case of M-35608 Craftsman Jack Buster QUINNEY, Royal Canadian Electrical & Mechanical Engineers, 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.

Cpl. J.B. Quinney
.....

Bordon Hants
16 November 1944.

I hereby acknowledge that I have received a true copy of the Summary of Evidence taken at New Martinique Barracks, 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.

Cpl. J.B. Quinney
.....

Bordon Hants
16 November 1944.

NWN 38

PTE QUINNEY J.B.

SCHEDULE.

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

Accused: M 35608 PTE JOHN BUSTER QUINNEY

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
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 lieu 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 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which 6 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 eight months

(Sgd) ..... Judge-Advocate, if any. Date awarded 20 May 44 (Sgd) E. Granville Major 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 ..... (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 Con 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 53, MML p 65. Quashing after promulgation: KR Con 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 sentence of the Court, but remit two months detention, and confirm sentence so remitted.

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

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

Date 21 May 44 (Sgd) E. L. Booth (E.L. BOOTH) Brig. Commanding Cond. 4 Cdn Armd Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
M-35608 Pte John Buster Quinney	23 May 44	J. H. Miller Maj

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

No illegalities or irregularities such as would warrant witholding confirmation.

Date 21 May 44 Signature Lieut-Col AAG A HQ 21 Army Gp

RECEIVED 10 1944 BRANCH HQMS

RECORDED AT CMHQ IN AD 169 NNA 38

FIELD GENERAL COURT-MARTIAL

CFAO8 (To Dept of AFAH) 40/P.A.C.R. 1808 (1864)

Convened by Order of E. L. BOOTH Comd 4 CAB dated 19 MAY 44

BRIGADIER

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 Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M35608	PTE.	JOHN BUSTER	QUINNEY	H C 2 ARMD BDE WKSP. RCOC

PROCEEDINGS REVIEWED

J. H. Miller Capt. 9 June 44

REVIEWING OFFICER

PROCEEDINGS REVIEWED D.J.K. Date 2 Sec GHQ 21 Army Gp.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 20 MAY 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 7/43

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 INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns KOs. 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 A95, 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, 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(2), accused is ~~were~~ amenable to military law, and each charge discloses an offence.(3)

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

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1102 hours trial commences.

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

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

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

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

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

(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, 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.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	E. J. O. GRAVELLE	LAKE SUP. R (M)
Member	A/CAPT.	M. S. FRANCIS	LAKE SUP. R (M)
Member	LT.	B. A. EKERS	HQ SQN HCAB
Judge-Advocate			
Prosecutor	CAPT.	W. T. THOMPSON	4 CAB WKSP
Defending Offr	LT.	C. B. CLARKSON	4 CAB WKSP.

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 instrs will be returned separately with proceedings for information of Conv. Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 59 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused M35608 PTE J. B. QUINNEY before arraignment make(s) (no) plea

(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or as 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 fns to Ref 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 ~~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 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from 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 instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 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 37(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 (5)

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

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his 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 findings of Guilty in Part 1 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 "F", 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 paras 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 charge(s) 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 ~~etc~~.

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

C2. The charge(s) 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 C2. If any plea is changed to Not Guilty, trial proceeds as directed by C1, complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on p 3.)

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 553. 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 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 86(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 155. 2. RP 93(A), 94(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 AF 22. 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(6).)

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

(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

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) (6), RP 45, 120(4). 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 Statements 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 A.S. 26(3)(f) (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 B and Ex C respectively.(3)

(1. MFB 353 or AFB 296. 2. AAM 6. 3. 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 Statements and Conduct Sheets and in mitigation of punishment ?(1) Ans. YES THROUGH MY DEFENDING OFFICER(2)

(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)

(1. AA 54(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 120. One sentence only, comprised of one punishment or punishments laid down in AA 41, 44 and its penalties, 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, 138, 182, RP 46-52, 69, 118, 119(A), KR Can XIII, 330, Sch Table, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 44(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 504. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. 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.

CHARGE SHEET

The accused M 35608 Pte John Buster QUINNEY 4 Cdn Armd Bde Wksp, a soldier of the Canadian Army Overseas, is charged with:-

CHARGE
Sec 15(1) AA

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE.

in that he

in the field on 25 Apr 44 absented himself without leave from his unit 4 Cdn Armd Bde Wksp from 1600 hours on said 25 Apr 44 until he returned to unit lines at 2020 hours 13 May 44.

In the Field
14 May 44

(J H MELLOR) MAJ
Officer Commanding
4 Cdn Armd Bde Wksp

To be tried by Field General Court Martial.

(E.L. BOOTH) Brig.
Comd. 4 Cdn Armd Bde

18 May 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any 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/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M 35608	Pte		John Buster	QUINNEY	4 Cdn Armd Bde Wksp RCOC

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) 18 May 44 endorsed by me, (~~or by one of my predecessors~~), "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 that the trial should be delayed for the purpose of referring to superior authority~~).
(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 nominate to appoint (as) these Offrs for the Court, (~~and a Fd Offr as President~~) for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr detailed hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.		Unit.
Major	E. J. O. Greveille (Must be named. RP 106.)	Lake Sup R (M)

MEMBERS.

Rank.		Unit.
Capt	J. M. Donahue	23 Cdn Fd Regt (SP) RCA
A/Capt	M. J. Francis (Named or detailed. RP 106.)	Lake Sup R (M)

WAITING MEMBER.

Rank.		Unit.
Lt	G. A. Ekers (Named or detailed, if any. RP 106.)	HQ Sqn 4 Cdn Armd Bde

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in England (Country.)

Date 19 May 44

E. L. Booth (Signed (personally). RP 105 fn 2.)

(E. L. Booth)

Brigadier (Rank.)

Commanding 4 Cdn Armd Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (Amd. (in lieu of AFAS) AFB 67 (Sept 1944))

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

MEDICAL OFFICER'S CERTIFICATE

K R (Can) Para 557

I certify that I have this morning examined No M 35608

Pte Quinney J B of 4 Cdn Armd Bde Wksp and in my opinion

he is fit/~~unfit~~ to undergo trial by Field General Court-Martial.

In the Field
20 May 44

Medical Officer
12th Cdn Lt A Amb

Capt J. M. Donahue 93 Can
FD Regt (SP) RCA
did not appear.
The waiting numbers
of H. G. Chris HQ Syn
4 Can Armd Bde took
his place.

Granville
Major

I

Statement in ref. to Para E 3.

Sir, in considering the case of Pte Dawson, the accused, he places himself at the mercy of the court.

The foregoing evidence was read back to the witness.

E Trimble Major
President of Court

Exhibit "A"
Granville Major

SUMMARY OF EVIDENCE

In the case of M35608 Pte John Buster Quinney 4 Cdn Armd Bde Wksp, 4 CdnArmd Div charged with

CHARGE — ABSENTING HIMSELF WITHOUT LEAVE AA Sec 15 (1)

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

FIRST WITNESS — B 3853 CSM Bye B J - 4 Cdn Armd Bde Wksp, 4 Cdn Armd Div, having been duly sworn states:-

I am B 3853 CSM Bye B J 4 Cdn Armd BdeWksp and on 25 Apr 44 I was in charge of the clean-up party at Maresfield Camp of which M 35608 Pte Quinney was a member. At approximately 1600 hours 25 Apr 44 I went to look for Pte Quinney to inform him to be ready to leave directly after supper from Maresfield Camp for unit lines in the field. Pte Quinney could not be found after searching Maresfield Camp. Several inquiries were made and no person knew of his whereabouts. Pte Quinney has not answered roll call or reported to this unit since 1600 hours 25 Apr 44. Pte Quinney reported to me at 2020 hours 13 May 44 stating that he had returned to unit lines of 4 Cdn Armd Bde Wksp.

The accused declines to cross examine the witness.

B A Bye
B3853 CSM Bye B J

QUESTION TO THE ACCUSED — Do you wish to make any statement or give any 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 used as evidence.

Accused — I have nothing to say at this time.

M35608 Pte Quinney J B

Certified that R.P. 4 (C)(D)(E)(F) and (G) have been complied with.

I certify that the foregoing summary of evidence consisting of one page was taken down by me in writing in the presence and hearing of the accused this 14th day of May 1944.

W T Thompson Capt
(W T Thompson) Capt
Officer detailed to take Summary of Evidence

In the Field
14 May 44.

M35608 No. QUINNEY J B Name

Sqn., Battery, or Company: Corps

Date of enlistment: 5-6-41 G.C. Badge

Sheet No. 1

Date of last entry in Company Conduct Sheet:

No. and date of last drunk:

Period not reckoning towards freedom from extra fine:

Signature O.C. Company, etc.: Pte Quinney Bty

Character

M.F.M. & A. Regt H.Q. 1771-40-1

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 - 18-1-43 Last entry - 30-9-41 no cases of drunkenness					
Field	5-4-43	Pte		WAOS- AWL from 1400 hrs 5 Apr 43 to 0950 hrs 12 Apr 43 total time absent 6 days 19 hrs 50 mins AA Sec 15(1)	Cpl Annkle	12 days FP	12 Apr 43	Not legible	forf 6 days pay under PR&I 149(1)(a) & forf of senten ce
Field	24-11-43	Pte		WAOS - Neglecting to obey Part I Order No 48 para 10 d/21 Oct 43 in that he, at 1145 hrs 24 Nov 43 was improperly in the CWAC lounge which is "OUT OF BOUNDS" at that time according to Part I Order No 48 d/21 Oct 43 AA Sec 11	Capt E English CWAC	3 days CB	23 Nov 43	Lieut E Dungeon	

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	9Jan44	Pte		AA Sec 15(1) AWL from 2359 hrs 9 jan 44 until 0820 hrs 26 Jan 44 'absent 16 days 8 hrs 21 mins)	C S M Murchison Documentary	28 days FP with forf of pay under FR&I 149(1)(b)	26Jan44	Major W E Bawden	Forf 17 days pay FR&L 149(1)(a)
Field	12-2-44	Pte		AWL from 0800 hrs 12 Feb 44 until 0800 hrs 15 Feb 44 (absent 3 days) A A Sec 15(1)	AQMS Mullen	21 days FP & 15feb 44 forf of 21 days pay		Maj J H MELLOR	Forf 3 days pay under FR&I 149(1)(a)
Field	18 Mar 44	Pte		AWL 1 days 14 hrs AA Sec 15(1)	S/Sgt Cozens	28 days FP & forf of 28 days pay	20 Mar44	Maj J H MELLOR	Forf 28 days pay under FR&I 149 (1)(a)

CERTIFIED TRUE COPY TAKEN FROM THE REGIMENTAL BOOKS IN MY CUSTODY

(J H MELLOR) MAJ GC
4 Cdn Armd Bde Wksp

Exhibit "B"

Brunell

2234 - 5-41 (572-3)
H.Q. 1772-36-4207
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M35608	Private	Quinney, John Buster	4 Cdn Armd Bde Wksp

1. The following is a fair and true summary of the entries in the [illegible] Field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For AWL - 3 charges	times	AWL - 4 charges	times	
For AA Sec 11 - 1 charge	times		times	
For	times		times	
For	times		times	

[illegible]

or,

[illegible]

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

2. The accused has not been previously convicted by FGCM

or,

[illegible]

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

or,

[illegible]

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and six (6 Capt) days in military custody, making a total of six (6 Capt) days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 27 years

6. The date of his attestation specified in his attestation paper is 5 Jun 1941

[illegible]

9. The accused [illegible] military decoration or reward. is in possession of or entitled to). State any

Cdn Volunteer Service Medal & Clasp

[illegible]

struck off strength of Regimental books of unit

dated

12. [illegible] :—

In the rank of Nil years.

In the rank of Nil years.

In the rank of Nil years.

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

SCHEDULE

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

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

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

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

Signed this 20th day of May 1944

Offr i/c Records 4 Cdn Armd Bde

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.

JJ-31 (Case #2)

PTE QUINTAL D.

See S-69 for 1st case

D-61798, Pte. Ovila QUINTAL
Fus. M.R., 6 C.I.R.U.

JJ-31

Correspondence to be PINNED here.

Army Form A.3.

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

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this FIFTH day of JULY, 1943.

Whereas it appears to me, the undersigned, an officer in Command of HEADQUARTERS "A" GROUP CDN RFT 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; *~~it is not practicable to delay the trial for reference to a superior qualified officer;~~ } (A)

*Omit when 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.

*~~I do not consider it practicable to appoint three Officers to form the Court;~~ *~~I appoint a Field Officer as President;~~ } (B)

*Omit if not applicable.

~~(or the following persons, namely)~~

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

President.

Rank.	Name.	Regiment.
Major	L.J. Dugal (R. de Chaud.)	6 C.I.R.U.

Members.

Rank.	Name.	Regiment.
Capt.	J.L. Dupuis (Sher. Fus.)	6 C.I.R.U.
Lieut.	A. Geoffrion (R. de Mais.)	6 C.I.R.U.
Waiting Member Lieut.	F. Lanthier (Gen. List)	6 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 (J.A. Calder) A/Colonel,
Commanding "A" Group Cdn Rft Units, C.A.(O). *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)
D-61798, Pte. Ovila QUINTAL Fus. M.R., 6 CIRU	First Charge A.A. Sec. 15 (1)			I confirm the finding and Sentence of the Court but commute the sentence to one of detention 12 Jul 43
	Second Charge A.A. Sec. 15 (1)			
Alternative charge	Third Charge A.A. Sec. 18 (4)			
	Fourth Charge Alternative A.A. Sec. 40			

*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) _____ (Signed) _____
(J.A. Calder) A/Colonel,
Commanding "A" Group Cdn Rft Units,
C.A. (b) Convening Officer (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.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the [illegible] day of [illegible], 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~~)

*Omit if not applicable.

were duly sworn.

Signed this [illegible] day of [illegible] 19[illegible]

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (i) on page 742 M.M.L., 1929.

~~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.

D. Confirmation.

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 or detention barrack until further orders.~~)

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

Signed this 12th day of July 19 43

[illegible] Col
Confirming Officer
a/Comd "A" Gp CRU

Promulgated and extracts taken in the case of D 61798 Pte Ovila Quintal Fus. M.R., 6 C.I.R.U.

(a) (Dated) 13 July 1943 (Signed) Camille Major Lieut
Asst Judge J.A.G.C.R.U.

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.

(23576) W1-44170-500 50 000 2/43 A.& E.W.Ltd. Gp 479

"G"

CHARGE SHEET

The accused, No D-51796, Private Ovila Quintal, of Les Fusilliers Mont-Royal, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas on active Service, is charged, with:

First Charge
Section 15(1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Algonquin Camp, Witley, Surrey, did absent himself without leave from 0530 hours on the 26th day of April, 1943, until he was apprehended by the Civil Police at Coatbridge at 1700 hours on the 16th day of June 1943, thereby incurring expenses for his return to his unit to the amount of three pounds, eight shillings and eight pence (£3.8.8)
(Total absence, 7 days, 11 hours, 30 minutes).

Second Charge
Section 15(1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Algonquin Camp, Witley, Surrey, when in arrest, did absent himself without leave from approximatively 1900 hours on the 22nd day of June, 1943, until he was apprehended by the Military Police at Camberley at 1945 hours on the 23rd day of June, 1943.
(Total absence, 1 day, 45 minutes).

Third Charge
Section 18(4)
Army Act

STEALING GOODS THE PROPERTY OF A PERSON SUBJECT TO MILITARY LAW,

in that he,

at Thursley, Surrey, on the 23rd day of June 1943, did steal one (1) battle dress, one (1) pay book, one (1) fountain pen, one (1) automatic pencil, two (2) wallets, one (1) pocket knife, one (1) franc piece, one (1) beads, one (1) medal, and one (1) diary, said goods being the property of one E-46441 Pte D rapeau A. of 1 CERU, a person subject to military law.

Fourth Charge
Alternative
Section 40
Army Act

AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

at Camberley, on the 23rd day of June 1943, was in improper possession of one (1) battle dress, one (1) pay book, one (1) fountain pen, one (1) automatic pencil, two (2) wallets, one (1) pocket knife, one (1) franc piece, one (1) beads, one (1) medal, and one (1) diary, said goods being the property of one E-46441 Pte Drapeau, A., of 1 CERU., a person subject to military law.

W. Tascherau

(G.C. TASCHEREAU), Lt-Col.
Officer Commanding
"H" Wing, 6 Cdn Inf Rft Unit.

Algonquin Camp,
Witley, Surrey,
30th day of June, 1943

MPH/JLN

To be tried by Field General Court Martial.

5 Jul 43.

J.L. Calder

(J.L. Calder) A/Colonel,
Commander,
"A" Group Cdn Rft Units,
C.A.(C).

July 7 - 1943

MEDICAL OFFICER'S CERTIFICATE.

I certify that I have this morning examined No. 6.61.798.....

.....7-7-43.....Pte. QUINTAL.....

and that, in my opinion, he is fit/~~unfit~~ to undergo trial by Court-Martial.

.....Capt.

PAGE 1

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT [redacted] ON THE [redacted] DAY OF [redacted] 45

TRIAL OF:-No. [redacted] Unit [redacted]

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

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

The accused is brought before the Court.

Prosecutor:- (Name) [redacted] (Unit) [redacted]

Defending Officer:- (Name) [redacted] (Unit) [redacted]

At 1335 hrs the trial commences.

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

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

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 - [redacted]

The President, members ~~and judge advocate (if any)~~ are duly sworn.

The following constitute the Court:

President [redacted] (Unit) [redacted]

Members [redacted] (Unit) [redacted]

[redacted] (Unit) [redacted]

Proceedings of T.C.O.R.
Pietermaritzburg 11 Jul 43.

Trial of: D-6177, The Criminal Code (T.C.O.R.) to date.

Continued:

The accused pleaded "Guilty" to the first main charge (R.T.P. 85 (B) complies with) and "Not Guilty" to the third main charge in the alternative. R.T.P. 87 (A) complied with. The accused stated he does not wish to appeal or submit.

Remarks.

The Prosecutor makes an opening address.

First Witness: Having been duly sworn, states:

[illegible] R.T.P. 78 (B) complied with.

Second Witness: Having been duly sworn, states:

[illegible] R.T.P. 78 (B) complied with.

Proceedings of a [illegible]
Algonquin Camp Fiji Is
[illegible] the Quintal, Civil (Fiji) Police.

Continued

Trial Witness: Having been duly Sworn, states:

I am A/Sgt. Sp. Branch, Lab. Corps.
On the Corps' Register I recognise the accused
here present as Pte. Quintal. As A/Sgt. Gibson
was a Case Preparing Officer I came to
Queensberry at about 1445 hrs. I noticed
the Civilian Police at the entrance to the
parade ground without a cap. I stopped the
Station Sergt. Inspector to the soldier
without the cap and asked him where it was.
He replied that it had been lost. It was
then agreed to see if the civilian police.
I then asked him at his quarters. He had no hat
Part I and II of his pay book but he had Part III.
As I was talking to the accused with
A/Sgt. Gibson straight out of the station
this belt whilst he was talking to the
took this to the Civil Police Station where
I got in touch with Major [illegible]
Regt. I asked him to bring the
[illegible] Police Station to the
[illegible] Police Station where
took certain articles which were in his
possession and which I now recognise
before the Court as Exhibits "K.F.J.K.M.
"M" and "R". I also recognise and produce
as Exhibits: a pullthru pull "A", one
[illegible] pencil "L". This case exhibits "K"
was handed to me by the accused who
has been present at every date since
[illegible] Police Station. When I asked
[illegible] Police Station. When I asked
[illegible] Police Station. When I asked

Proceedings of U.S. Dist. Ct.
Pittsburgh Comp. 11 Jul 45

Testimony of S/Sgt. [illegible] Pvt. Quintal, Otis (FR) [illegible] Co.

Continued.

Prosecution Witness: Having been duly sworn, states:

Direct Examination: [illegible]

Defense Witness: Having been duly sworn, states:

Cross Examination: [illegible]

Defense Witness: Having been duly sworn, states:

Cross Examination: [illegible]

Trial of: S. Sgt. [illegible] Pvt. Quinn, Otis (ASN); USMC

Continued:

Defense Witness: previously sworn as Exhibit [illegible] is being marked for identification. The parts where a bullet struck it are [illegible] this witness still remains on the sleeve where he enters his name. S has not issued any instructions to anyone. Cross-examined: Are you certain [illegible] he should be a scout that all these Exhibits are your property? A: Yes. S: Are certain [illegible] are mine. R.C.M. 913(b), examination cont. The Prosecution is closed.

Defense

The following object [illegible] the Court to R.C.M. 906 note 1 (p. [illegible] R.C.M. note 1 (p. [illegible]). Chapt. XI, [illegible] matter, para. 1a, p. [illegible] subject that the question has not [illegible] a prima facie [illegible] against the accused. The [illegible] to consider [illegible]

B Questions put to the witness by the Court: Q: [illegible] not give evidence [illegible] Q: [illegible] Q: [illegible] liable to prosecution [illegible] questioning by the Court. It is [illegible] suit comes [illegible] Court does not [illegible] result not upon oath. Answer by the witness: No, Sir. Question by the Court: Do you wish to say anything in the [illegible] of the case? Answer by the witness: No, Sir. R.C.M. 916 (A) and (B) complied with.

Findings

The Court finds the accused S. Sgt. [illegible] Otis (ASN), USMC:

1st Charge
Viol. Art. 86

Guilty of absenting himself without leave, in that he, at Hill Command Camp, Lejeune, did, without leave, from [illegible] on the 3rd of July, 1945 until he was apprehended by the F.B.I. at Cambridge, at [illegible] on the 15th of June, 1945, thereby [illegible] the return to his unit of the command of Pfc. [illegible] (Total absence: 8 days, 11 hrs, 30 min.).

2nd Charge
Viol. Art. 121

Guilty of absenting himself without leave, in that he, at Hill Command Camp, Lejeune, did, without leave, from [illegible] on the 3rd of July, 1945 until he was apprehended by the F.B.I. at Cambridge, at [illegible] on the 15th of June, 1945 (Total absence: 8 days, 11 hrs, 30 min.).

3rd Charge
Viol. Art. 121

Guilty of stealing one [illegible] the property of a person subject to military law, to wit: [illegible] Sergeant [illegible] on the 3rd of July, 1945, one [illegible] one [illegible] one [illegible]

PAGE 6

Sentence

Exhibits

Exhibit "A"

RECORD of the Declaration of a Court of Inquiry assembled at Algonquin Camp, Witley, Surrey, on the 19th day of May 19 43 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. D-61798 Pte Quintal, O. Fusiliers Mont-Royal, 6 CIRU.

DECLARATION

The Court declare that No D-61798 Pte Quintal, O., Fusiliers, Mont-Royal, 6 CIRU, :

1- Did illegally absent himself without leave from 0530 hrs 26 Apr 43, and that he is still so absent on 22 May 43 at 0330 hrs.

2. That on 26 Apr 43 he was deficient, and is still deficient of the following articles to the value of £9.1.5:

	ARTICLES	VOCABULARY VALUE	APPRAISED VALUE
1 pr	Boots ankle	1. 1. 6	0.16. 1
1	Field Service cap	0. 3. 6	0. 2. 9
2 prs	Drawers cellular short	0. 4. 1	0. 3. 1
2 prs	Drawers woollen	0.10. 6	0. 6. 0½
2	Shirts angola drab	0.18. 4	0.13. 9
1 pr	Socks	0. 1. 8	0. 1. 3
1 pr	Trousers SD	1. 7.11	1. 0.11
2	Vests woollen	0.10. 2	0. 7. 7½
1	Badge cap	0. 0. 5	0. 0. 4
1	Bag kit	0. 5. 3	0. 3.11
1	Brasses button	0. 0. 2	0. 0. 1½
1	Brush hair	0. 0. 8	0. 0. 10
1	Brush tooth	0. 1.11	0. 0. 3½
1	Comb hair	0. 0. 2	0. 0. 1½
1	Fork table	0. 0. 5	0. 0. 4
1	Holdall	0. 0. 9	0. 0. 7
1	Knife clasp	0. 0. 5	0. 0.11
1	Knife table	0. 0. 9½	0. 0. 7
1	Spoon table	0. 0. 4½	0. 0. 3
1	Vest woollen gym	0. 1. 6	0. 1. 1
1	Braces web	0. 2. 2½	0. 1. 6
1	Dressing first field	0. 0. 1	0. 0.10
1	Haversack	0. 0. 7	0. 7. 2
1	Container respirator	0. 7. 2	0. 5. 4½
1	Facepiece, respirator	0.11. 7½	0. 8. 8½
1	Haversack respirator	0. 5. 8	0. 4. 3
1	Outfit AD	0. 0. 1½	0. 0. 1
1	Ointment AG	0. 1. 2	0. 0.10½
6	Eyeshields	0. 4. 8	0. 3. 6
1	Frog bayonet	0. 0.11½	0. 0. 8½
1	Brush brass cleaning	0. 0. 4	0. 0. 3
		£ 7.19. 3	£ 5.19. 5

Names of President and Members:

President Capt J.P. Marier, R de Mais
Members Lt J.L. Cousineau, Gen List
Lt A. Trudel, Gen List

Signature of Commanding Officer W.E. Morgan, Col

A. Barrette, Capt.
ADJT., 6 CDN. INF. RFT. UNIT

Certified true copy

Signature of Officer having custody of original record.

DESCRIPTIVE RETURN OF § D.61798 Pte. QUINTAL, Ovila who was apprehended at Coatbridge (hour) 17.00 hrs. on the 16th day of June, 1943 and was committed to confinement at Coatbridge on the 16th day of June, 1943, as a Deserter (from ~~XXXXXXXXXXXXX~~ ~~XXXX~~ from ~~XX~~ ~~XXXXXXX~~ Les Fusilliers Mont Royal, C.A.S.F. ~~XXXXXXXXX~~ Witley, Surrey.

Age 23. Height 5 feet 4 inches
Complexion Fresh. Hair Black. Eyes Dark Brown.
Marks In uniform or plain clothes Uniform.

Probable date and place of attestation	30. 1.40 at Montreal.
Probable date of desertion or beginning of absence and from what place	1st May, 1943, at Witley.
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured	John A. Birnie, Detective Inspector, Burgh Police Office, Coatbridge.

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.

JOHN A. BIRNIE, aforesaid, STATES:- At 17.00 hours on 16.6.43 I found the above soldier employed on demolition work in Coats Street, Coatbridge. On questioning him I suspected that he was a deserter from the Canadian Army, and on conveying him to Police Headquarters he admitted his identity and being a deserter from above Unit. He was detained.

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[r] is an absentee from the before-mentioned Corps.

Signature
Residence
Post Town
Date of Signature
Signature of Prisoner
Signature of Informant

} Committing Magistrate.

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

} of 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

Army Form C.1818.

PART II.

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. ____ of ____
Regiment at ____ on ____ by ____
who was committed as a Deserter (or Absentee without leave) on the ____

RECOMMENDATION FOR REWARD.

I RECOMMEND* ____

Address ____

for a reward of ____

Signature of Committing Magistrate.

Date.

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules :—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units, and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

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

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

Exhibit "B" [illegible]

Army Form O.1698.

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

No expenses incurred in conveying a Deserter or Absentee from the Court to prison should be charged to Army funds. Such expenses can be included in the claim made on the Prison Commissioners.

The total amount allowed on account of expenses before committal will not together with the reward exceed 40/-.

I CERTIFY that the following expenses were incurred by the .....

Police in connection with the apprehension of .....

..... and are

payable to .....

.....
Superintendent or Officer i/c Police Station at .....

Date .....

AUTHORITY for the PAYMENT of a REWARD. *(For Army use only.)*

The Command Paymaster ..... is hereby authorised to pay to ..... being the person recommended by the Committing Magistrate, a reward of ..... for the apprehension of .....

Date .....
(O.C. Unit)
Officer Commanding.

Where no reward is authorised, though one was recommended by the Magistrate, or where the reward authorised is less than that recommended, a brief explanation will be given below :—

IMMEDIATE.

PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and [illegible] to [illegible] to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit. The place where the escort is required to attend should be stated, also whether the soldier surrendered or was arrested.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

(5) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps.

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

[illegible]

Exhibit "C"

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

Reg. No. 4/6198 Rank Pte Name Quintal, O Unit 6 C I R U FMR

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

Date	Particulars (½ portion)	Amount		
18 June 43	Escorts return fare from LONDON To Glasgow	1	10	10
	Prisoners single fare to LONDON From Glasgow	1	10	10
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares (½ portion)		7	0
	Total £	3	8	8

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

CAPT.
(W. FERN) D.A.P.M.
LONDON AREA. Capt.

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

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

Demande de clémence dans le cas de
D-61748 Pte Quintal O.

Le Sdt Quintal Dr. est l'aîné d'une famille de 9 enfants, il y a son père, son frère et lui même dans l'armée. Le soldat est donc le soutien de cette grande famille, avec l'aide de son père et de son frère, qui sont en Angleterre, c'est à dire que son père vient de repartir pour le Canada ou il sera incessamment renvoyé, pour cause de santé, en dehors de l'armée étant malade, il sera peut-être très longtemps avant de trouver une position avec laquelle il pourras faire vivre sa famille, donc la mère du Sdt Quintal compte sur les allocations de ses fils pour vivre, serait-il donc de mise, Mr le président que une telle famille souffre de leur parte que l'un de ses fils est venu en Angleterre et

par inaction et ennui a fait un acte qu'il regrette amèrement, il veut maintenant s'amender, d'abord parce que cela ne le paie pas et lui enève du prestige, ensuite parce qu'il réalise que c'est à lui qu'incombe maintenant le devoir de mettre le pain sur la table de la famille. Nous demandons à la cours de considérer ces points avant de condamner ce soldat ce qui ferait beaucoup de tord à sa famille qui n'est surement pas responsable de la presente situation.

Jean Guérin Dr. Lieut.
officier de la défense

SUMMARY OF EVIDENCE

In the case of No D-61798, Private Ovila QUINTAL, of Les Fusiliers Mont-Royal, on the strength of No6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas on active service.

By direction of the Commanding Officer, this Summary of Evidence was taken under oath.

First Witness for the Prosecution. Lt. L.P. Lanoie, General List, 6 CIRU, having been duly sworn, states :

I am Lt L.P. Lanoie, General List, 6 CIRU. I hereby produce the following documents concerning the accused, D-61798 Pte Quintal, O.:

(a) Copy of the Declaration of a Court of Inquiry held on 19 May 43. This document in marked "Exhibit 'A'" and is attached to the Summary of Evidence.

(b) AFO 1618 - Descriptive Return of a Deserter or Absentee Without Leave, dated 16 Jun 43 and marked "Exhibit 'B'".

(c) Expense Voucher in accordance with KR Can 929. This document, dated 16 Jun 43, is marked "Exhibit 'C'" and is attached to the Summary of Evidence.

The accused declines to cross-examine this witness.

L. P. Lanoie .....Lt.

The accused, having been duly cautioned in French in accordance with RP 4 (2) and Overseas RO 1424, 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 Algonquin Camp, Witley, Surrey, on the 21st day of June, 1943, and that Rules of Procedure 4 (C), (D), (E), (F) and (G) have been duly complied with.

W. P. Menard .....Lt.
(Officer taking Summary).

Algonquin Camp,
Witley, Surrey,
21st day of June, 1943

MPM/JLN

SUPPLEMENTARY SUMMARY OF EVIDENCE

In the case of No D-61796, Private Ovila QUINCAL, of Les Fusiliers Mont-Royal, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas on active service.

By direction of the Commanding Officer, this Summary of Evidence was taken under oath.

First Witness for the Prosecution. D-62174 Pte Lavoie, J., Fusiliers Mont-Royal, 6 CIRU, having been duly sworn, states:

I am D-62174 Pte Lavoie, J., of Les Fusiliers Mont-Royal, on the regimental police staff of 6 CIRU. On 22 Jun 43, at about 1130 hrs, I was placed in charge of three prisoners in the guard room of 6 CIRU, for the purpose of escorting them while they washed the floor of the Paymaster's Office. The accused, whom I now recognise, was one of these prisoners. He was in custody pending trial by FGCM. It was about 1500 hrs when the prisoners finished washing the floor. I told them to fall in in single file. When this was done I gave them orders to march out. Just as they got outside the door, Pte QUINCAL gave another of the prisoners three down their cells and ran. I gave chase but could not catch up with them. I immediately reported the fact to the man in charge of the guard room. When they escorted the prisoners were dressed in Battle dress.

The accused declines to cross-examine this witness.

J. Lavoie ..... Pte.

Second Witness for the Prosecution. L-2319 L/Cpl Olson, L.B., No 7 Company, Canadian Provost Corps, having been duly sworn, states:

I am L-2319 L/Cpl Olson, L.B., of No 7 Company, Canadian Provost Corps. At about 1945 hrs on 23 Jun 43, I was on duty at Camberly accompanied by Cpl Boyce, when the latter had the occasion to check the accused, whom I now recognise, for being without head dress. When asked for identification, the accused produced Part III of his Pay book. Noticing the name in this document, I suspected it to be that of an escaped prisoner from 6 CIRU. Pte QUINCAL was accompanied by another soldier. I told both soldiers to get into our car and come with us to the Police Station. When we got there, they were identified as the escaped prisoners from 6 CIRU. They were placed in the custody of the Civil Police until we could take them back to their unit.

The accused declines to cross-examine this witness.

L.B. Olson ..... L/Cpl.

Third Witness for the Prosecution. A-9092 Cpl Boyce, W.C., No 7 Company, Canadian Provost Corps, having been duly sworn, states:

I am A-9092 Cpl Boyce, W.C., of No 7 Company, Canadian Provost Corps. About 1945 hrs on 23 Jun 43, while patrolling on the main London road in Camberly in company with L/Cpl Olson, I had the occasion to check the accused, whom I now recognise. He was not wearing any headdress. He was accompanied by another soldier. While I was asking them for their identification, L/Cpl Olson told them to get into our car and to come with us to the Police Station. When we got there, the two men were identified as escaped prisoners from 6 CIRU. They were turned over to the Civil Police and kept in custody until they could be returned to their unit. When they were arrested, the two men were wearing battle dress.

The accused declines to cross-examine this witness.

W. C. Boyce ..... Cpl.

SUPPLEMENTARY SUMMARY OF EVIDENCE

In the case of No D-61796, Private Ovila QUINTAL, of Les Fusiliers Mont-Royal, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas on active service.

Fourth Witness for the Prosecution.

E-5197 Cpl Robidoux, H., Royal 22e Regiment, 6 CIRU, having been duly sworn, states:

I am E-5197 Cpl Robidoux, H., of the Royal 22e Regiment, on the Regimental Police staff of 6 CIRU. On 23 Jun 43, in company with Cpl Brassard, I proceeded to Camberly to bring back two prisoners who were in custody at the police station. When we got there the two prisoners, one of whom was Pte Quintal, whom I now recognise, were turned over to us. At the same time Cpl Boyce of the Canadian Provost Corps, turned over to me three pocket books, one fountain pen, on pencil, 1 set of beads, one note book, one medal and one franc piece, which articles had been taken from the two prisoners after their arrest. I hereby produce these articles as exhibits as follows:

Pocket books	---	Exhibits "N", "P" and "O"
Fountain pen	---	Exhibit "M"
Pencil	---	Exhibit "K"
Prayer beads	---	Exhibit "J"
Note book	---	Exhibit "R"
Medal	---	Exhibit "L"
Franc piece	---	Exhibit "I"

When they were turned over to me, the two prisoners were wearing battle dress.

The accused declines to cross-examine this witness.

H. Robidoux .....Cpl.

Fifth Witness for the Prosecution.

E-5217 Sgt Jette, D., Royal 22e Regiment, 6 CIRU, having been duly sworn, states:

I am E-5217 Sgt Jette, D., of the Royal 22e Regiment, Provost Sergeant of 6 CIRU. On 26 Jun 43, I had the occasion to investigate the alleged theft of two battle dress by Ptes Quintal and Lapasse. In the course of this investigation, I was taken by the two soldiers in question to a point beyond Tweedsmuir Camp where I found their denim suits together with two pay books bearing the names of E-14723 Chenard, Wilfrid, and E-48441, Drapeau, Aime. I hereby produce these two pay books as exhibits "N" and "O" respectively. These articles were found in a rabbit warren and could not have been found without the help of the accused.

The accused declines to cross-examine this witness.

D. Jette .....Sgt.

Sixth Witness for the Prosecution.

D-57256 Cpl Daigle, D., Regiment de Maisonneuve, 6 CIRU, having been duly sworn, states:

I am D-57256 Cpl Daigle, D., of Le Regiment de Maisonneuve, 6 CIRU. On 21 Jun 43 I inspected the kit of Pte Quintal, whom I now recognise, and, on the following morning, brought him to the Q.M. Stores, where he bought all the kit of which he was deficient. At the time Pte Quintal had two battle dress only. On 25 Jun 43 I again inspected the kit of the accused and found him in possession of one extra battle dress which I hereby produce as Exhibit "P".

The accused declines to cross-examine this witness.

A. Daigle .....Cpl.

SUPPLEMENTARY SUMMARY OF EVIDENCE

In the case of No D-31798, Private Ovile QUINTAL of Les Fusiliers Mont-Royal, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas on active service.

Seventh Witness for the Prosecution.

E-46441 Pte Drapeau, A., 1 C RU, having been duly sworn, states:

I am E-46441 Pte Drapeau, A., 1 C RU. On 23 Jun 43, when I returned to my tent after my day's work, I noticed that my Uniform, which I had left hanging in my hut, was missing, together with the following articles, which I had left in the pockets:

(a) 1 Pay Book, KRH I, Part II
(b) 1 Fountain pen
(c) 1 Automatic pencil
(d) 1 Wallet, containing photographs and various papers
(e) 1 Pocket knife
(f) 1 Franc piece
(g) 1 set of beads
(h) 1 Note book

I hereby recognise the uniform marked Exhibit "D" as the one which was taken from my tent on the s/m date. I also recognise the pay book marked Exhibit "N" as being the one which was taken with the battle dress, and the various articles marked Exhibit "E", "F", "G", "I", "J", "K", "L" and "M" as those which disappeared at the same time as my battle dress.

The accused declines to cross-examine this witness.

SPR Drapeau A. Pte.

Eighth Witness for the Prosecution.

E-14723 Pte Chenard, W., 1 C RU, having been duly sworn, states:

I am E-14723 Pte Chenard, W., 1 C RU. On 23 Jun 43, when I returned from my day's work, I noticed that my battle dress, which I had left hanging in my tent, was missing, together with the following articles, which I had left in the pockets:

(a) 1 Pay Book, KRH I, Part II
(b) 1 Wallet, containing photographs and various papers.

I hereby recognise the uniform marked Exhibit "D" as the one which was taken from my tent on the s/m date. I also recognise the pay book marked Exhibit "N" as being the one which was taken with the battle dress, and the wallet marked Exhibit "G" as the one which disappeared at the same time as my battle dress.

The accused declines to cross-examine this witness.

Wilfrid Chenard Pte.

The accused, having been duly cautioned in French in accordance with RP 4 (E) and Overseas RO 1414, reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of three pages, was taken down by me in the presence and hearing of the accused at Algonquin Camp, Witley, Surrey, on the 29th day of June, 1943, and that Rules of Procedure 4 (C), (D), (E) and (F) have been duly complied with.

M. J. Menard Lt.
(Officer taking Summary).

Algonquin Camp,
Witley, Surrey,
29th day of June, 1943.

MJM/JLH

SUPPLEMENTARY SUMMARY OF EVIDENCE

In the case of No D-61798, Private Ovila QUINTAL, of Les Fusiliers Mont-Royal, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas on active service.

By direction of the Commanding Officer, this Summary of Evidence was taken under oath.

First Witness for the Prosecution. L-2319 L/Cpl Olson, L.B., No 7 Company, Canadian Provost Corps, recalled, states on oath:

On the 23 Jun 43, after taking Ptes Quintal and Lagasse to the police station, I searched them in company with Cpl Boyce and the civil police. I found on Quintal the following articles which I hereby produce as exhibits as shown:

1 Battle dress	---	Exhibit "b"
2 Wallets	---	Exhibits "a" and "y"
1 Fountain pen	---	Exhibit "w"
1 Automatic pencil	---	Exhibit "x"
1 Rosary	---	Exhibit "z"
1 Diary	---	Exhibit "c"
1 Wallet	---	Exhibit "d"
1 Wrist watch	---	Exhibit "e"
1 Pen knife	---	Exhibit "f"

The accused declines to cross-examine this witness.

L B Olsen ..... L/Cpl.

The accused, having been duly cautioned in French in accordance with RP 4 (E) and Overseas RO 1424, 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 Algonquin Camp, Witley, Surrey, on the 3rd day of July, 1943, and that Rules of Procedure 4 (C), (D), (E), and (F) have been duly complied with.

M P Menard ..... Lt.
(Officer taking Summary).

Algonquin Camp,
Witley, Surrey,
3rd day of July, 1943.

MPM/JLN

Last sheet destroyed 30 June 40.

No. D. 61798 Name QUINTAL. O. Sqn., Battery, or Company } Corps F M R Date of enlistment } 30 Jan 40 G.C. Badges } N/A Service or Proficiency Pay } N/A

M.F.M. 5 A.F.B. 178 (1939-40) 20-4-41 (1939-40) 20-12-1772 39-1652

Date of last entry in Company Conduct Sheet } 21 Jun 40 No. and date of last drunk } N/A Period not reckoning towards freedom from extra fine } N/A Sheet No. 2 Signature O.C. Company, etc. } Capt Indian Characters

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	21 Jun 40	Pte		AA 40 Conduct to the prejudice and good order of military discipline (failing to perform military duty)	C.S.M. Trudeau	7 days C.B. 1 days pay	23 Dec 40	Capt Cloutier	
Field	3 Jul 40	Pte		AA 11 Neglect to obey standing orders (selling gift cigarettes to civilians)	Lt. Tandstad	7 days pay	10 Jul 40	Field Punishment	
Field	3 Jul 40	Pte		AA 2 [illegible] (quitting a post of duty to take away a bottle of liquor on a taxi)	Sgt Lamarche	2 days pay 6 days C.B.	4 Jul 40	Capt Tandstad	
Field	23 Jul 40	Pte		AA 15(1) Willful damage to Crown property to the value of $3.36 the property of Sgt Arsenault Cpl Mercier 3 days 17 hrs. 15 min. Confined to Camp	Sgt Arsenault Capt Mercier	3 days pay 7 days C.B.	27 Apr 42	Lt Col Menard	Lt Col Menard Deprived of A/W 2

Officer having custody of original document

(P 1703)

Place	Date of offence	Rank	Corps of regiment	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15 Jul 42	Pte		AB 15(1) AWL from 0800 hrs 15 Jul 42 till 2030 hrs 28 Jul 42 (13 days 12 hrs 30 mins)	Cpl M. Heaton	14 days S.B.	3 Aug 42	Lt Col Worrard	forf 17 days pay for A.W.L.
Field	29 Jul 42	Pte		AB 15(1) AWL from 2230 hrs 29 Jul 42 till 1900 hrs 22 Aug 42 (17 days 17 hrs 30 mins) thereby occasioning expenses of £0.11.6		27 days F.P. No. 1 Stoppages £0.11.6 27 days F.P.	24 Aug 42	Major Forget	forf 27 days pay for A.W.L.
Field	2 Aug 42	Pte		1) AA 15(1) AWL from 2230 hrs 2 Aug 42 till 1515 hrs 18 Oct 42, (50 days 16 hrs 45 mins) 2) AA 15(1) AWL from 1730 hrs 24 Oct 42 till 2200 hrs 3 Nov 42 (10 days 5 hrs 30 mins) 3) Losing by neglect his clothing equipment and regimental necessaries to the value of £3.16.1½	Written Evidence	7 months detention to be undergone at Detention Barracks, Aldershot Forfeit 61 days pay £3.16.1½ Released from Detention Barracks 6 Apr 43 Remission 45 days	11 Nov 42 Confd by Corps C in C (5 Nov 42)	F.M. C.M.	forf 45 days for A.W.L. 4 days for Theft and Desert

Officer Having Power to Confirm [illegible] 3 Feby 43

Private

ARMY FORM B.200.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
D-61798	Private	Quintal, O.	Fusiliers Mont-Royal, 6 CIB

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.—If a trial by field general court martial (by summary mil. or accepted) [illegible] the conduct sheet.

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

* See sect. 47(2), A.A., 1930.

* The sections which stand [illegible] with the consent of either of the accused person, or of his counsel or solicitor, [illegible] to the court without [illegible] and to be recorded [illegible] of the [illegible] under.

Instruction [illegible] charge is [illegible] gives the [illegible] circumstances [illegible] death [illegible]

	* Within last 12 months.	* Since Enlistment.
For Army Act 15 (1)	2 times	3 times.
For Army Act 11	times	1 times.
For Army Act 40	time	1 times.
For Army Act 41	time	1 times.
For	times	times.

Number of instances of gallantry or distinguished conduct, 2 nil

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 of~~ [illegible] beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and ~~14~~ days in military custody, making a total of ~~14~~ days, of which nil days were spent in hospital.

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

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 10 Jan 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs 156 dys

8. The accused is entitled to deferred pay or gratuity in respect of 2 years 156 days service.

9. The accused is entitled to reckon 2 years 156 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decorations or military award ~~or is in possession of or entitled to claim any military decoration or award~~.

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer was [illegible] 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

[illegible]

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.

No. D-61796 Rank Private Name [illegible] Initial, O. of [illegible] Regiment (or as the case may be).

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

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, 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.
FDCM	Field 11 Nov 42	(1) Army Act 15 (1) AWL from 2230 hrs 28 Aug 42 to 1505 hrs 10 Oct 42 (50 days 17 hrs 35 min) (2) Army Act 15 (1) AWL from 1930 hrs 20 Oct 42 to 2200 hrs 3 Nov 42 (14 days 2 hrs 30 min) (3) Army Act 24 (2) Losing by neglect his equipment, clothing and regimental necessaries to the value of £3.16.-	2 months detention	5 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 7th day of July 1943

Capt

Officer having custody of original documents

The accused has served as a non-commissioned officer continuously without reduction in the present rank.

In the rank of ____ years.

In the rank of ____ years

In the rank of ____

Date of Promotion

(Insert here any matter in any of the above paragraphs which it is desired to omit from the regimental books the paragraph must be specified and the reason given in the case of a trial by field general court-martial the information may be collected from each member as an assembly and the paragraphs amended accordingly.)

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken at Algonquin Camp, Witley, Surrey, prior to my trial by Court-Martial. I further acknowledge that I have been served with a true copy of the charges upon which I am being brought to trial by Court-Martial.

2. I acknowledge that I have been served with a copy of an additional Summary of Evidence taken at Algonquin Camp, Witley, Surrey, prior to my trial by Court-Martial.

3. I desire the services of an officer to represent me at my trial by Court-Martial. I request the services of

~~Lieut. Langevin~~ Sgt. [illegible] C.I.B.H.

if he is available.

Orville Lunstad

Algonquin Camp,
Witley, Surrey,
... day of ... 1943.

Langevin L. Sgt. Lieut.

TO: H.Q., "A" Group, C.R.U. F.G.C.M. AGR Form 52

ACKNOWLEDGEMENT BY PRESIDENT

I hereby acknowledge receipt of the Convening Order (A.F.A.3) and relevant documents for the trial by Field General Court Martial of

Number D-61798 Rank Pte. Name Ovila QUINTAL Unit Fus. M.R., 6 C.I.R.C.

which will be held at 0930 hrs. on Tues., 6 Jul 43 at No. 2 Sgts' Mess,

ALGONQUIN Camp

Date [illegible] Signature [illegible] Rank [illegible]

Unit [illegible]

695.

REGIMENTAL DOCUMENTS

H.Q. FILE No. .....

NAME Pte QUINTAL, O. REGIMENTAL No. .....

UNIT OF ENLISTMENT Infantry RANK .....

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

M.F.W. 5200
60/P & S./1118

4/E 134

PTE QUINTAL D

SCHEDULE.

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

Accused: D.61798 Pte QUINTAL, Ovila 4 CITR CIC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd AA Sec 15(1)	GUILTY	GUILTY	
3rd AA Sec 15(1)	GUILTY	GUILTY	
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 lieu of kit see RP 44 fn 5.)

~~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 B296.)

Time in confinement awaiting present trial—a total of 22 days, of which 13 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF 8355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo ~~Imprisonment~~ detention for 2 years.

(Sgd) ..... Judge-Advocate, if any. 13 Nov 44 Date awarded. (Sgd) E.R. Talbot Lt Col 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 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) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 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 53, MML p 65. Quashing after promulgation: KR Con 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:

Confirmed

~~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 Nov 44 (Sgd) (G S N Gostling) Brig Commanding "A" Gp Cdn Rft Units CA(O) Confirming Officer.

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

Accused. D61798 Pte Quintal O. Date. 19/Nov44 Signature of Offr. James Gillespie Capt for 4 C I R of 4 C I R.

DD 16 Nov 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 22 NOV 1944 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160, [illegible]

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by [illegible] Brig G S N Gostling ED Comd "A" GP CDN dated 12 NOV 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 Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
D.61798	Pte	Ovila	QUINTAL	4 CITR CIC

PROCEEDINGS REVIEWED

J.A.G. Representative Capt 29 Nov 44

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

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 13 Nov 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 INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns 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, CF A93, for paths and instrs on how to record addresses, evidence, etc, which items are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 72, 74, 94, 102, 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 (not) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 12(A). 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (not) brought before the Court. At 1230 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (not) fit to undergo trial by court-martial. ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO (or).~~ (1)

(1. KR Con 537. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as Interpreter? Ans .....

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

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, waiting member retires. RP 66(8). If objection, see procedure AA 51, RP 25, 71, 78, 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	E.R. TALBOT	2 CITR
Member	Capt	R GRAVEL	4CITR
Member	Lt	SF CUILLERIER	4CITR
~~Waiting Member~~ Interpreter	Capt		
Prosecutor		JPB LECLAIRE	4CITR.
Defending Offr		NIL.	

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

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

A8. The accused D.61798 Pte QUINTAL O. 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(2), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 113), 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 16, 71), such plea, the addresses made in support or against, the evidence, if any, and findings are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank 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) 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 instrn 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 A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record in Notes.)

A10. The Court (is advised and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 5.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening 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 instrs as may be appropriate to result of its decision. See M.M.L. 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 Pros 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 SIR. (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form* E.
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides [not] to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) changes(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 where 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, try such charge(s) by use of paras 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 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* 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 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 *fns* 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, 86(*C*). *Note the further opportunity in para* E1 *of Record Form* E. *Record per Notes oaths/affns, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part 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(*7*) (*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 SIR.
(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 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 they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 6CB, D.C. respectively.(3)
(1. *AFB* 255 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *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 SIR.
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to state 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)
(1. *AA* 54(*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 cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566. *Overseas AO* 309, 2323, *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(*3*), (*b*)(*i*), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *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.

CHARGE SHEET

The accused, No D-61790 Private Ovila QUINTAL, of The Canadian Infantry Corps, on the strength of 4 Canadian Infantry Training Regiment, a soldier of The Canadian Army Overseas, si charged with:

FIRST CHARGE
SECTION 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the Field, absented himself without leave from 2359 hours on the 14th day of August 1944 until he surrendered himself at 2110 hours on the 15th day of August 1944.
(Total absence 21 hours 11 minutes)

SECOND CHARGE
SECTION 15 (1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the Field, absented himself without leave from 2359 hours on the 17th day of August 1944 until apprehended by the Civil Police at 0030 hours on the 6th day of September 1944.
(Total absence 19 days 31 minutes)

THIRD CHARGE
SECTION 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the Field, when under arrest, absented himself without leave from 1530 hours on the 22nd day of September 1944 until he surrendered himself at 0935 hours on the 21st day of October 1944.
(Total absence 28 days 18 hours 15 minutes)

J. Gauvreau Colonel
Commanding Officer
4 CDN INF TNG REGT

In the Field
10 Nov 44.

To be tried by Field General Court Martial.

(G S M Costling) Brig
Comd
"A" Gp Cdn Rft Units
CAO

12 Nov 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any 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/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
D.61798	Pte		Ovila	QUINTAL	4 CITR CIC

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) 12 Nov 44 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 HEREBY APPOINT MYSELF PRESIDENT, (BY RANK) AS PRESIDENT, AS CHAIRMAN I HAVE DETACHED~~

(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.

(Rank.)		(Unit.)
MAJOR	E.R. TALBOT	2 CITR
	(Must be named. RP 106.)	

MEMBERS.

(Rank.)		(Unit.)
Capt	to be detailed by OC 4 CITR	4 CITR
Lt	to be detailed by OC 4 CITR	4 CITR
	(Named or detailed. RP 106.)	

WAITING MEMBER.

(Rank.)		(Unit.)
Capt	to be detailed by OC 4 CITR	4 CITR
	(Named or detailed, if any. RP 106.)	

~~JUDGE ADVOCATE~~

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

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Date 12 Nov 44

Commanding "A" GP Cdn Rft Units C A (C)

(G S N Gostling)

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (Reprint (Up Issue of AFB2 30.7 & 87/1267 (6401))

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

Medical Offr's Certificate
K R (Can) para 557

I certify that I have this morning examined No: [illegible] (RANK)
[illegible] (NAME) of [illegible] and in my opinion he is
~~fit~~ to undergo trial by Court Martial.

Station

Date 13 Nov 44

SGD [illegible]
(Medical Offr)

Ex 11 (B)

SUMMARY OF EVIDENCE

In the case of No R-61796 Pte Ovila GUILMET, of The C.I.C., on the strength of 4 Cdn Inf Trg Regt, a soldier of The Canadian Army Overseas.

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

First Witness for the Prosecution R-125555 L/Cpl Lepage, R., of The Cdn Inf Corps, on strength of 4 CITC was sworn as interpreter.

R-62226 L/Cpl Dumont, C.R. of The Cdn Inf Corps, on strength of 4 CITC, having been duly sworn states as follows:

"On 15 Aug 44 at 0110 hrs the accused reported back from A.W.L. to me. The accused used to work on the Regtl Police force and I know him."

The accused declines to cross-examine this witness.

L/Cpl
(C.R. Dumont)

Second Witness for the Prosecution R-62240 L/Cpl Turcotte, M., of The Cdn Inf Corps, on strength of 4 CITC, having been duly sworn states as follows:

" When I took over my duties in charge of Regtl Police, the accused did not report to me at 0700 hrs 14 Aug 44, at which time he should have reported as he was on duty. I put him on the absentee report."

The accused declines to cross-examine this witness.

L/Cpl
(M. Turcotte)

Third Witness for the Prosecution Lieut T.M. Lavallee, of The CIC, on the strength of 4 CITC, having been duly sworn states as follows:

" I am assistant adjt of 4 CITC, formerly 4 CIUMU. I produce the following documents relating to the accused:

(a) Certified true copy of an extract of Part II Order No 826 of 4 C.I.C.U. 4/30 Aug 44. Produced and marked Exhibit "A".

(b) Army Form C 1414 d/d Sep 44. Produced and marked Exhibit "B".

(c) Army Form C 1617 d/d Oct 44, certificate of Surrender. Produced and marked Exhibit "C". "

The accused declines to cross-examine this witness.

Lieut
(T. M. Lavallee)

Fourth Witness for the Prosecution R-142518 Cpl Tousaw, E., of The CIC, on strength of 4 CITC, having been duly sworn states as follows:

" On 28 Sep 44 the accused, whom I recognize, was working for me on the condition fatigue. He was detailed to me from the guard room, 4 CIUMU, and was in custody. At 1800 hrs on that day he escaped. "

The accused declines to cross-examine this witness.

Cpl
(E. Tousaw)

The accused was then cautioned as follows: "Do you wish to make any statement or 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 may 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 the presence and hearing of the accused, and that Rules of Procedure 4 (c) (d) (E) & (F) have been duly complied with.

Capt
officer detailed to take the summary of evidence

5 Nov 44

Ex A 26.

SUMMARY OF EVIDENCE

In the case of No D-61796 Pte Gwin QUINEL, of The C.I.C., on the strength of 4 Cdn Inf Trg Regt, a soldier of The Canadian Army Overseas.

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

First Witness for the Prosecution — B-19556 L/Cpl Lepage, R., of The Cdn Inf Corps, on strength of 4 CITR was sworn as interpreter.

B-6838 L/Cpl Caimont, G.P. of The Cdn Inf Corps, on strength of 4 CITR, having been duly sworn states as follows:

"On 15 Aug 44 at 0110 hrs the accused reported back from A.W.L. to me. The accused used to work on the Regtl Police force and I know him."

The accused declines to cross-examine this witness.

Caimont L/Cpl
(G.P. Caimont)

Second Witness for the Prosecution — B-62745 L/Cpl Turcotte, M., of The Cdn Inf Corps, on strength of 4 CITR, having been duly sworn states as follows:

" When I took over my duties in charge of Regtl Police, the accused did not report to me at 2359 hrs 14 Aug 44, at which time he should have reported as he was on duty. I put him on the absentee report."

The accused declines to cross-examine this witness.

L/Cpl
(M. Turcotte)

Third Witness for the Prosecution — Lieut Y.M. Lavallee, of The CIC, on the strength of 4 CITR, having been duly sworn states as follows:

" I am assistant adjt of 4 CITR, formerly 4 CIRU. I produce the following documents relating to the accused:

(a) Certified true copy of an extract of Part II Order No 205 of 4 C.I.R.U. d/30 Aug 44. PRODUCED AND MARKED EXHIBIT "A".

(b) Army Form C 1416 d/s 5 Sep 44. PRODUCED AND MARKED EXHIBIT "B".

(c) Army Form C 1619 d/21 Oct 44, certificate of Surrender. PRODUCED AND MARKED EXHIBIT "C". "

The accused declines to cross-examine this witness.

Lieut
(Y. M. Lavallee)

Fourth Witness for the Prosecution — D-142518 Cpl Tourner, M., of The CIC, on strength of 4 CITR, having been duly sworn states as follows:

" On 22 Sep 44 the accused, whom I recognize, was working for me on the sanitation fatigue. He was detailed to me from the guard room, 4 CITR, and was in custody. At 1520 hrs on that day he escaped. "

The accused declines to cross-examine this witness.

Cpl
(M. Tourner)

The accused was then cautioned as follows: "Do you wish to make any statement or 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 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 the presence and hearing of the accused, and that Rules of Procedure 4 (C) (D) (E) & (F) have been duly complied with.

Capt

8 nov 44 — officer detailed to take the summary of evidence

450/Escape/10-44

S.I.B. C.M.P.C. PROVOST.

LONDON. 23 Oct 44.

Appendix "A"

Reg. No:D-61798 Pte.QUINTAL, Ovila.
No:6 C.I.R.U. - C.P.U.

(ESCAPER)

SIS/E-2-13 SIS/T-2-341

1. The a/m soldier escaped military custody on the 22nd Sept.44. from No.6 C.I.R.U. and remained absent until apprehended by the Civil Police at 0935hrs. 21Oct 44. at Barking Rd., E.16 London. Pte.QUINTAL was dressed in battle dress at the time of arrest.

2. Pte.QUINTAL arrives under escort at No.6 Coy. Detn. Room at 1340hrs. 21 Oct 44. The following day he was interviewed by the writer in regards to his activities while being A.W.L.

3. After having duly cautioned Pte.QUINTAL, the following voluntary statement was obtained from him and signed.

STATEMENT OF. Reg.No.D-61798 DATE. 23 Oct 44.

Pte.QUINTAL, Ovila. UNIT. No.6 C.I.R.U.

" I have been cautioned by L/Cpl.POPIEL,P. of the 6th CDN. PROVOST CORPS, that I am not obliged to say anything unless I wish to do so, but anything I do say will be taken down in writing and may be given as evidence. To show that I understand this caution I sign my name here.
Witness:L/Cpl.POPIEL,P. (Sgd) Pte.QUINTAL,O.

First statement in anticipation as read by accused.

I Pte.QUINTAL was sent as an escort from 6 C.I.R.U. with an S.U.S. around the 17th Sept 44. to Headley. On my way back to my Unit I met a brother of mine at a Pub in London, and we both went up to 6 C.I.R.U. My brother was with me for about a week as he told me he was on pass, he later admitted he was on the loose. We then decided to go together, the first place we went to was Leeds, Manchester, here we stayed for about ten days. Then my brother and I we went to Skipton, here we got into a little trouble over a couple of rings, and were arrested, we appeared in Court and pleaded Guilty. When I was brought back to 6 C.I.R.U. I promised my Officer that I wouldn't run away, if I wasn't given a Court Martial for being the (19)days. On the 22nd Sept.44. I was told I'd be up for a Court Martial, as I was released and doing fatigues I went into the woods. The next day I came to London, here I stayed until the time I was arrested by the Civil Police at 0935hrs. 21thOct.44. at Barking Rd., E.16 London. During my stay in London, I stayed with different women and visited different Pubs, also spending most of my nights in Air Raid Shelters. As for the money problem, I obtained most of it by begging from the Yank's. I also wish to say that I do not intend to soldier any longer, having spent over five years overseas I am fed up with the Army. I can be of more use looking after my family and working for a living back home than staying here. I have read the above statement and verify that everything that I have said is true.
Witness:L/Cpl.POPIEL,P. (Sgd) Ovila QUINTAL.

(Cont'd)

Cont'd.

4. Pte.QUINTAL in his statement stated, that he was 'fed up' with the Army and had no intentions of soldiering. From his attitude during this interview I am of the opinion that he does not intend to be a good soldier, or of any use to the Army.

5. Pte.QUINTAL was returned to his Unit under escort this day for further inquiries.

CONCLUDED.

L/Cpl.
B-142518 L/Cpl. [illegible], P.
[illegible] CDN. PROV. CORPS.

Headquarters,
C.M.H.Q.

1. Forwarded in triplicate for your information, that of the A.P.M. and Unit concerned, please.

London
25 Oct 44
JD/rm

Major,
For (A.D.Cameron) Colonel,
D.P.M. - C.M.H.Q.

LAST ORDER NO 204 29 Aug 44 | 6 CANADIAN INFANTRY REINFORCEMENT UNIT DAILY ORDERS PART II issued by COLONEL W.W.MORGAN, O.B.E., M.C., COMMANDING OFFICER | THIS ORDER NO 205 30 Aug 44

SECTION "B" OTHER RANKS

13. ABSENT WITHOUT LEAVE

13-B A.W.L. from hour and date shown. Still A.W.L. at hour and date shown (8th day).

D-61798 Pte Guintal, O. (Fus M R) 2359 hrs 17 Aug 44 2359 hrs 25 Aug 44

Sgd W. Lamoureux, Lieut
for (R. Laverdure) A/Captain
for Adjutant
6 Can Inf Rft Unit

Certified true copy dated: 30 Aug 44
ADMIN OFF 4 C I TR
Officer having custody of original documents.

(B). Exhibit "E"

I CERTIFY that the man whose personal description is given below surrendered himself to* Stn. Inspr "K" Jones

at Barking Road, E.16. at (hour) 9-35am on the 21st. day of October, 1944, as being No. D.61978 (Rank and Name) Private Gvela Quintal a deserter (or absentee without leave) from 15-8-44 and it appears to me from his confession that he is a deserter or absentee without leave.

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

Age 24 Height 5 Feet 7 Inches

Complexion Dark Hair Dark

Eyes Brown

Marks Scar on right wrist

In uniform or plain clothes Uniform

Probable Date and Place of Attestation	6-9-39 Montreal
Probable Date of Desertion or beginning of absence, and from what place	Aldershot 15-8-44

Signature of Officer of Police in charge of Station. Plaistow

Date of Signature. 21-10-44

Army Form O.1817
R.A.F. Form 1617.

PART 2.

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

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

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

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

Payable to

NIL

CERTIFIED that this statement of expenses is correct.

Superintendent or Officer in charge of Police Station at Plaistow.

21.10.44 Date of Signature.

IMMEDIATE.

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

PART I.

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

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

Instructions for the Guidance of the Police.

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

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

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

† Note.—Special instructions apply in war for the arrival of absentees and deserters from the Army, who surrender to the civil police, e.g., such personnel will be taken over from the civil authorities by the O.C. the nearest military unit or the O.C., Barracks at the nearest military station. (A.C.I. 1007/1940).

(20,000) 12-41 A.&E.W.Ltd. Gp.698
(12,000) 3-44 " " Forms/O.1617/16

Descriptive Return of § Private C. 61798 Ovila Quintal who

was apprehended at Skipton at (hour) 12.30am. the 6th day

of September, 1944, and was ~~detained in Skipton Gaol~~ remanded to await escort on the 6th day of September, 1944, as ~~a Deserter from the~~ Absentee without leave) from the ~~Army~~ Canadian Army Service Corps

Regiment of Bordon, Hants.

Age 24 years Height 5 feet 6 inches.

Complexion Fresh Hair Black Eyes Brown

Marks Scar right wrist In uniform or plain clothes Uniform

Probable date and place of attestation.	30. 1. 1940. Montreal, Canada.
Probable date of desertion or beginning of absence and from what place.	29th August, 1944. Bordon, Hants.
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured.	P.C. 227 George H. Calvert. P.C.1083 Albert Norton.

Particulars in the evidence on which the Prisoner is committed, and shewing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.

* In consequence of information received, P.C's Calvert and Norton visited the Fleece Inn, Skipton, at 12.30am., Wednesday 6th September, 1944, where they saw the two prisoners. They were asked to produce their leave passes, but were unable to do so. Ovila Quintal stated that he had been absent for a few days. They were taken into cu-stody and taken to Skipton Police Station. When cautioned and charged, Ovila Quintal replied, "I can take it".

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 from the Canadian Army Service Corps.

Signature
Residence
Post Town
} of Committing Magistrate.

Received Skipton
SKIPTON
6th September, 1944. Date of Signature.

O.C. Quintal
Signature of Prisoner.

Signature of Informant.

Inspector of Police.

State where the Prisoner confessed, and evidence of the truth or falsehood of such confession if 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
} of Magistrate.

Date of Signature.

§ Care should be taken to insert Regtl. No. and rank.
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

Army Form C. 1018.*

PART II.

This portion of the Form to be detached, after the Magistrate has committed the soldier and completed the recommendation as to reward, and handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them and despatch it as there directed.

Apprehension of No. of

Regiment at on by

who was committed as a Deserter (or Absentee without leave) on the

RECOMMENDATION FOR REWARD.

I recommend*

Address

for a reward of

Signature of Committing Magistrate

Date

* The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/- 10/- 15/- or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules:—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units, and after having been absent for some time the reward may be increased to 10/- to 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the Deserter or Absentee is apprehended.

The following Statement of expenses (if any) incurred by the Police and chargeable to Army Funds should be certified by a Superintendent or officer in charge of a station and forwarded to the General Officer Commanding-in-Chief the Command or General Officer Commanding District in which the arrest was effected.

No expenses incurred in conveying a Deserter or Absentee from the Court to prison should be charged to Army funds. Such expenses can be included in the claim made on the Prison Commissioners.

The total amount allowed on account of expenses before committal will not together with the reward exceed 40/-.

I certify that the following expenses were incurred by the _____

Police in connection with the apprehension of _____

_____ and are

payable to _____

Superintendent or Officer
i/c Police Station at

Date _____

(For Army use only.)

AUTHORITY for the PAYMENT of a REWARD.

The Command Paymaster _____ is hereby authorized to

pay to _____ being the person recommended by the

Committing Magistrate, a reward of _____ for the apprehension

of _____

General Officer,

Date _____ Commanding District or Command.

Where no reward is authorized though one was recommended by the Magistrate, or where the reward authorized is less than that recommended, a brief explanation will be given below.

IMMEDIATE. Army Form C. 1618.

PART I

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, Part I. of this return should be filled up and forwarded by post by the Clerk to the Justices to the General Officer Commanding-in-Chief the Command or the General Officer Commanding the District in which the arrest was effected. (*See list below.*)

(2) Where the unit, to which a defaulting soldier belongs, is in the neighbourhood of the place in which he is detained in police custody, arrangements for the provision of an escort may be made by the Police direct with the officer commanding the unit. In this case Part I. of this return should be given to the Police to hand to the escort on arrival.

(3) To avoid delay a telegram stating the Number, Rank, Name, Unit and Place from which the soldier is absent should be sent by the Police as soon as the man is committed to the General Officer Commanding to whom this form is to be dispatched.

(4) Any recommendation for a reward should be made on Part II. of this return, which, when completed, will be forwarded by the Police to the proper quarter.

(5) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

LIST OF COMMANDS AND DISTRICTS.

Aldershot Command	G.O.C. in C., Aldershot Command, Aldershot.
Eastern Command	G.O.C. in C., Eastern Command, 50, Pall Mall, S.W.1.
Irish Command	G.O.C. in C., the Forces in Ireland, Parkgate, Dublin.
Northern Command	G.O.C. in C., Northern Command, York.
Scottish Command	G.O.C. in C., Scottish Command, Edinburgh.
Southern Command	G.O.C. in C., Southern Command, Salisbury.
Western Command	G.O.C. in C., Western Command, Chester.
London District	G.O.C., London District, 11, Carlton House Terrace, S.W.1.
Jersey	G.O.C., Jersey District, Jersey.
Guernsey and Alderney	G.O.C., Guernsey and Alderney District, Guernsey.

The following modifications to the above list will be observed :—

In the case of Canadian soldiers	information regarding their apprehension will be sent to :—
,, Australian (except Southern Command)	A.P.M., Canadians, London, 102, Oxford Street, W.1. (Telegraph : "Canuckian Ox London." Telephone : Museum 3443, 3929.)
,, ,, Southern Command	A.P.M., A.I.F., London, 35, Warwick Square, S.W.1. (Telegraph : "Aposnotts, London." Telephone : Victoria 4056.)
,, New Zealand	A.P.M., A.I.F., Bhurtpore Barracks, Tidworth. (Tel. : "Portcul, Salisbury, Tidworth." Tel. : 181 Tidworth.)
,, South African	A.P.M., New Zealand Imperial Force, 70, Chester Square, London, S.W.1. (Telegraph : "Empromal." Telephone : Victoria 1052.)
,, Royal Marines	Staff Officer, South African, London, 63, Victoria Street, S.W.1. (Telegraph : "Sobats." Telephone : Victoria 4815.)
	Adjutant-General, R.M., Admiralty, 35, Spring Gardens, London, S.W.1. (Telegraph : Royal Marines, London.) (Telephone : Admiralty 426.)

N.B. Part I. of this return will be given to the Escorts in the case of Canadian Soldiers, Australian Soldiers within and outside the Metropolitan Area, New Zealand and South African Soldiers and the Royal Marines, and Part II. sent direct to the A.P.M. or Staff Officer concerned as above.

NOTE.—In cases of doubt as to the Command concerned, application should be made to the nearest Assistant Provost Marshal.

(S 45 78) W1798—P1055 100,000 5/18 HWV(hhM1223)

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).*
B-81796	Pte	Cuintal, O.	6 Cdn Inf Reinf Unit

NOTE.—The Field Conduct Sheet is to be rendered 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, as the case may be, should be stated separately. Any recognised 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	AA Sec 15(1)	5 times.
For	AA Sec 40	1 times.
For	AA Sec 41	1 times.
For	AA Sec 11	1 times.
For		times.

Date of first entry in Field Conduct Sheet 2 Jun 40

Date of last entry in Field Conduct Sheet 26 Apr 43

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

*Strike out if not applicable.

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

beginning on the day of

4. The accused has been awaiting trial on the present charges for

days in civil custody; and for 22 days in military custody, i.e., NIL days in open arrest, 22 days in close arrest; of which 13 days were spent in hospital.

5. The present age of the accused is 24 yrs

6. The date of his ~~attestation~~ enlisting up for military service is 30 Jan 40

7. The service which the accused is allowed to reckon is 2 yrs 95 days

8. The accused is in possession of; CVSM & Clasp

State the military decorations (if 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.*

(21114) W1.8870/888. 100,000 4/42 A.& E.W.Ltd. Gp.698 Forms/B.296(War)/2
(21459) W1.23020/1572 60,000 9/42

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.
FCCM	Field 11 Nov 42	AA Sec 15(1) AWL 65 days 19 hrs 5 min	7 months detn	Remission 65 days
FCCM	Field 7 Jul 43	AA Sec 15(1) AWL 53 days	18 months detn	Remission 176 days

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 4th day of May 44

[illegible] officer having custody of regimental books

ADJT. 4 CDN. INF. RFT. UNIT

3 FF
4 C ITR

No. D-61796 Name GUIMAL, Ovila | Sqn, Battery, or Company | Corps Cdn Inf Corps | Date of enlistment 30 Jan 40 | GC Badges N/A | Service or Proficiency Pay N/A | 3/17 MFM 6

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc S Paulin Lt | Character

Place	Date of offence	Rank	Cases of drunken hood	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order given- ning with trial	By whom awarded	Remarks
				Sheets 1 & 2 destroyed (Auth N.O. 319 & 2064 5-11-42					
Field	2-6-40	Pte		AA 15(1) AWL 3 days 14 hrs 30 mins	CSM Levesque	2 days detn	7 Jun 40	Capt Painchaud	forf 4 days pay for AWL
Field	14-6-40	Pte		AA 15(1) AWL 6 days 13 hrs 30 mins	CSM Levesque	8 days C.B. 6 days pay	21 Jun 40	Capt Painchaud	forf 7 days pay for AWL
Field	21-12-40	Pte		AA 40 Conduct to the prej etc	CSM Levesque	7 days C.B.	23 Dec 40	Capt Vezina	
Field	15-7-41	Pte		AA 11 Failing to obey an order	Lt Vanderlac	7 days pay	25 Jul 41	Lt col Granger	
Field	3-1-42	Pte		AA 41 Stealing liquor	Sgt Dutrouchel	2 days pay 7 days C.B.	4 Feb 42	Lt col Menard	forfeit
Field	23-4-42	Pte		AA 15(1) AWL 4 days 17 hrs 15 mins	Sgt Dussault	3 days pay 7 days C.B.	27 Apr 42	Lt col Menard	forf 5 days pay for AWL
Field	15-7-42	Pte		AA 15(1) AWL 13 days 12 hrs 30 mins	CSMMartin	14 days C.B.	3 Aug 42	Lt col Menard	forf 14 days pay for AWL

certified true copy J.W. Bellerby Officer having custody of regtl books
ADMIN OFF 4 CIBR

(PTO)

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
									AWL.
Field	4-8-42	Pte		AA 15(1) AWL 17 days 17 hrs 40 mins	Documentary	27 days P.D. 27 days pay	24 Aug 42	Maj Forget	forf 18 days pay for
Field	28-8-42	Pte		AA 15(1) AWL 68 days 19 hrs 5 mins Remission 68 days	Documentary	2 mos detn	11 Nov 42	FOCM	forf 68 days pay for AWL
Field	26-4-43	Pte		AA 15(1) AWL 51 days 11 hrs 30 mins AWL 1 day 45 mins AA 18(4) Not guilty.	Documentary Remission 17½ days.	18 mos detn	7 Jul 43	FOCM	forf 53 days pay for AWL

Certified true copy ..... Officer having custody of Regt'l books.

.....CAPT.

~~ADJT., 6 CDN. INF. BDE. (Unit)~~

ADMIN OFF - 4 C I T R

LIST of WITNESSES

1. For the Prosecution.

E-6232 L/Cpl GOIMONT G.R. CIC 4CITR
E-42743 L/Cpl Turcotte M CIC 4CITR.
Lieut J. M. LAVALLEE CIC 4CITR.
D 142518 Cpl TOWNER. H CIC 4CITR.

2. For the Defence.

NIL.

LIST OF EXHIBITS

A - Summary of Evidence

B - Certified true copy of Extract from DO Part II No 205 d/ 30 Aug 44 GCIRU.

C - Statement of Character and Particulars of Service of Accused.

D - AF Z96 relating to Accused.

E - Army Form 0617 relating to the accused

F - Army Form 0618 relating to the accused.

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:

..... N.A. .....

if he is available.

....

In the Field
day of 19 .

Offrs under visit.

Lt. A. Intermoscia
Capt. G. Robischaud

4 CITR
4 CITR.

E.B.

5T-96-97

Ste. Quintal, L.

RECORDED AT SERIAL No. 5 T-17

FIELD GENERAL COURT-MARTIAL

4/38B

by Order of Brig. D.S.O. HOSTING, R.E. Comd 2 CBBG dated 1 May 45

SCHEDULE.

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

Accused: C-100797 pte Romeo QUINTAL X-4 List CIC att 1 Cdn Disciplinary Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
Sheet "1" 1st A.A. Sec 12(1)a	Not Guilty		Sheet "1" The court finds the accused
Sheet "2" 2nd A.A. Sec 12(1) a	Not Guilty		Not Guilty of desertion but guilty of
Sheet "2" 3rd AA. Sec. 12(1) a	Not Guilty	Guilty.	A.W.L. from 1630 hrs 6 July 44 until
4th A.A. Sec 40.	Guilty	Guilty.	surrendering himself at 1215 hrs 6 Sept 44
5th			Sheet "2" The court finds the accused Not Guilty of
6th			desertion but guilty of AWOL from 2400 hrs 29 Oct. until surrendering himself at 0001 hrs 16 June 45.

(Note: As to findings for lesser offences see AA 56, RP 46; 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 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 58 days, of which — 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 suffer penal servitude for a period of 3 years & to be dismissed from with ignominy from His Majesty's forces. The amount of $58.80 found to be forfeited.

7 May 45. (Sgd) A.E. LeRoy Major (RP 45, 50.)

(Sgd) Judge-Advocate, if any. Date awarded. President.

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

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

I reserve the finding and sentence for confirmation by superior authority.

Date 17 MAY 45 (Sgd) Commanding 2 CDN BASE RPT GP

Brigadier

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

(For duties and powers see AA 54, 57, RP 27(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 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 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 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:

NOT CONFIRMED

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 7 JUNE MAY 45 (Sgd) (H D G Crerar) General

Commanding GOC in C First Cdn Army

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Con 576, 577.)

Accused. Date. Signature of Offr.

C 100797 Pte ROMEO QUINTAL 16 JUNE 45 Lt-Col Comdg, 1 Cdn Disciplinary Cent

(GRS #581 2/15 Jun 45)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

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 Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-100797	Pte	Romeo	QUINTAL	X-4 List CIC att 1 Cdn Disciplinary Centre

RECEIVED 1 OCT 1945 JAG BRANCH

PROCEEDINGS REVIEWED

A/K Lieutenant-Colonel

for DEPUTY JUDGE ADVOCATE, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held at (place) in (country) BELGIUM on (date(s)) 7 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 31/36-

A1. The President, Members, waiting Member[s] [absent], Judge-Advocate, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant [mm RDs. For guidance as 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 AFS, for forms 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, 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 each charge discloses an offence.(3)

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

A3. The Court is opened. The accused is [are] brought before the Court. At 1100 hours trial commences.

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

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

A5. President to accused: ~~Do you object to an interpreter?~~ Ans ~~The interpreter is sworn.(1) Do you object to as shorthand writer?~~ Ans ~~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, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 78, 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, viz:

President	Major	A.E. LeROY.	Supt Mpl att 1 Cdn Disciplinary Centre
Member	Capt.	A. Forbes	C.I.C. att "1 Cdn Disc. Centre
Member	Lieut.	K.A. McKeagney	Calg. Highrs. 2 CBBG
Judge Advocate	~~Capt.~~	~~R.A. Briggs~~	~~R.A.O.C. att HQ 1 Cdn Inf. Div.~~ ~~1 Cdn Disc. Centre~~
Prosecutor	Lieut.	M. Rocheleau	Chas R de Chaud. att HQ 1 Cdn Inf. Div.
Defending Offr	Capt.	F.E. Dowler	Gen List att 1 Cdn Disc Centre

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

A8. The accused C-100797 Pte Romeo QUINTAL 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), 108), or as to the jurisdiction of the Court (RP 34, 35(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 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 fns to RsP cited. Insert in left 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 (~~does~~ 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 27, 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 AFA to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBBG WD 7 p 43

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening 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 28.) *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 144A Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A),(B); duty and privileges of accused and Defending Offr see RP 60(C), 85, 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 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 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. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on 2nd of the 3rd charge(s). ~~The accused is (was) so informed, and he (they) change(s) his (their) plea(s) as 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.(1)

(1. *RP 25(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex D, 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 of Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by using paras 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 D 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 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 C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

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

1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules as 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, recorded per Notes.*)

2. 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).*)

3. The evidence for the Prosecution is taken.(2) Signed + attached as Exhibits "A" "B" & "C"

(1. *RP 39(C), 114, KR Con 535. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not disclose a prima facie case against the accused on the charge(s).(2) The Court has considered the submission.(3) The Court is re-opened, and the President announces that the submission is allowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(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 80(C), 114, 115.)

5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence 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) 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 ? Reserved gives evidence and calls Do you intend to call witnesses on your behalf ? No. Are they witnesses as to character only ? Ans N/A

(1. *RP 115.* 2. *RP 40(A), see 80(C).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 4.*)

6. 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 885. 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(6).*)

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

(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(G).*)

8. 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 1st charge and 3rd charge being subject to confirmation, will be promulgated later.(1) ~~The President announces that the accused is found Not Guilty on all charges, and is to be released forthwith, and the proceedings are accordingly terminated. Part I of the Schedule is deleted and signed.(2)~~

(1. *AA 54(3), (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative paragraph is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

9. 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)

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 information, 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 E and Ex F respectively.(3)

(1. *AA 54(3), RP 46.* 2. *MFB 255 or AFB 296.* 3. *MFM 6.* 4. *RP 46, KR Con 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. on mitigation of punishment

(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)

(1. *AA 54(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 77 (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 48. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Con 208, 230, Sch3-566, Overseas RO 309, 2323, MML p 162, 2157-2159. 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(1B), 168(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. 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.

CHARGE SHEET No 1

The accused, C-100797 Pte Romeo QUINTAL, X-4 List CIC, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 12 (1) (a)
Army Act

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

in the Field, at 1630 hrs 6 Jul 44 absented himself from his unit until 1215 hrs 6 Sep 44.

(Total absence: 61 days 19 hrs 45 minutes)

Remanded for Summary of Evidence

In the Field
21 Apr 45

(J W Medhurst) Lt col
Commanding
1 Cdn Disciplinary Centre

Remanded for Field General Court-Martial

In the Field
21 Apr 45

(J W Medhurst) Lt col
Commanding
1 Cdn Disciplinary Centre

To be tried by FIELD GENERAL COURT MARTIAL.

In the Field
1 May 45

(G S M Gostling) Brigadier,
Commander
2 Cdn Base Hft Gp

CHARGE SHEET No 2

The accused, C-100797 Pte Romeo QUINTAL, X-4 List CDC, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 12 (1) (a)
Army Act

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

in the Field, absented himself without leave from 2300 hrs 24 Oct 44 until 0001 hrs 30 Jan 45

(Total absence: 97 days 1 hr 1 minute)

Remanded for Summary of Evidence

In the Field
16 Apr 45

(J R Medhurst) Lt col
Commanding
1 Cdn Disciplinary Centre

Remanded for Field General Court-Martial

In the Field
16 Apr 45

(J R Medhurst) Lt col
Commanding
1 Cdn Disciplinary Centre

To be tried by FIELD GENERAL COURT MARTIAL.

In the Field
1 May 45

(G S N Gostling) Brigadier,
Commander
2 Cdn Base Rft Gp

CHARGE SHEET No 3

The accused, C-100797 Pte Romeo QUINTAL, K-4 List CIC, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 12 (1) (a)
Army Act

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

in the Field, with intent to avoid joining his unit, absented himself without leave from 1600 hrs 8 Feb 45 until apprehended in civilian clothes in BRUSSELS, Belgium at 1600 hrs 9 Mar 45.

(Total absence: 29 days)

SECOND CHARGE
Sec 40
Army Act

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

in that he

in the Field, at 1625 hrs 9 Mar 45 was found in improper possession of fifty-one thousand seven hundred and eighty (51,780) Belgian francs.

Remanded for Summary of Evidence

In the Field
11 Apr 45

(J N Medhurst) Lt col
Commanding
1 Cdn Disciplinary Centre

Remanded for Field General Court-Martial

In the Field
11 Apr 45

(J N Medhurst) Lt col
Commanding
1 Cdn Disciplinary Centre

To be tried by FIELD GENERAL COURT MARTIAL.

In the Field
1 May 45

(G S P Gostling) Brigadier,
Commander
2 Cdn Base Rft Gp

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army 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/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
C-100797	Pte		Romeo	QUINTAL	X-4 List CIC 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 [illegible] committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 1 May 45 endorsed by me [illegible]. " 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 ; ([illegible])
(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. [illegible]
(AA 49, RP 106(5), 107(A). Delete the whole or part, if not applicable.)

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

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	R E LEFROY Seaforth of Can ~~G S N GOS,~~	~~GAS~~, att 1 Cdn Disciplinary Centre

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
~~Major~~	A. FORTIER CIC ~~A S LO BOI~~	~~Seaforth of C~~, att 1 Cdn Disciplinary Centre
~~Lieut~~	K A MCKENZIE, The Calg. Highrs. att. 1 Cdn Disciplinary Centre ~~A J THOMSON~~	~~CIO~~, ~~2 CDN Bn~~

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.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)
(C S N Gostling)

Date 1 May 45

Commanding ~~2 CDN BASE HFT GP~~
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CPASO (1st Dup of AFAS) 40-P-6-5/1601 (4601)

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

MFB 246

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 55)
(CMHQ OL 173)

I certify that I have this day examined C/40782 (No.)

Pte (Rank) QUINTAL - R (Name) and in my opinion he is fit to undergo trial by Court-Martial.

Station 1 Cdn Disciplinary [illegible]

(Sgd) [illegible] Capt. (Medical Officer)

Date _____ Unit 1 Cdn Disciplinary [illegible]

7 May 1945

Evidence in the trial by Court Martial of C100797 Pte Quintal R. – Charge sheet no. 1.

The prosecution opens the case for the prosecution by submitting the following documentary evidence which was accepted by the court, marked by the president, & entered as exhibit "A"

Exhibit A Certified true copy of extract from X4 list (CIC) Part II Order no 45 – dated 26 Dec 44 relating to C100797 Pte Quintal R.

The case for the prosecution is closed.

The case for the defence is opened. The accused elects to give evidence on oath.

First witness C100797 Pte Quintal R.

having been duly sworn states: –

I am C100797 Pte Quintal R. On the 4th of July 44 I was transfered from the R.C.E. to the infantry. I was in the engineers from the time I joined the army. When I was transfered to the infantry I asked to be paraded to the colonel of the infantry regiment, the F.M.R.'s the sergeant ~~told me~~ asked me the reason & I said I wanted to go back to the engineers. Wait & we'll see what we can do was what the sergeant said. I waited but there was no news & I was not paraded to the colonel. I decided to go AWL for a few days then give myself up which would mean I would get before the colonel & I would be able to tell him about my case.

While I was on the loose I met a girl & I stayed with her for about 15 days. I was going to give myself up but I put it off from day to day until I felt it was at last time to really give myself up. One night I had no place to sleep & I had'nt eaten for some time so I turned myself in to the Canadian Provost Corps in Antwerp. I was sent to Ghent where I was in close arrest for 3 days, & then open arrest for two or three weeks awaiting trial. I surrendered voluntarily & I wasn't sick — I just wanted to get before the CO of the 4 M.R. to get back to the engineers. I didn't intend to stay two months when I left.

Cross examined by prosecutor.

I lived in Antwerp. It was shortly after the liberation & I told civilians I was on leave. They gave me food & a place to stay when I talked with them about sleeping out doors & so on, for so long.

R.P. 83 (1) complied with.

R.A.M. G.

Summing up for the Prosecution.

C-100 797 - Pte QUINTAS, R.

The accused stayed away for more than 30 days. It was finally after missing a few [redacted] made that he surrendered himself. Had he been in better financial conditions would he have returned when he did. It is up to the Court to say whether this man is guilty of Desertion or not.

Lt. Kavanagh

Pro the Prosecution

In the Field
Belgium 7 May 15.

DEFENCE

Charge I Summing up in case of Prod 999 Pte Quintal R.

The accused has given his reasons for staying away as being an effort to have attention brought to the fact that he was remustered to Infantry. He voluntarily gave himself up.

A Brown Capt

#2 Charge Sheet 7 May 1945

Evidence in the trial by Court Martial of C100797 Pte Quintal R. – Charge sheet no. 2.

The prosecutor opens the case for the prosecution by submitting the following documentary evidence which was accepted by the court, marked by the president & entered as Exhibit A.

Exhibit A Certified true copy of extract from F.M.R. Part II Order No 14 dated 3 Mar. 45 relating to C100797 Pte Quintal R.

The prosecution closes

The defence opens & the accused elects to give evidence on oath.

First witness C100797 Pte Quintal R having been duly sworn states: –

I am C100797 Pte Quintal R. I was away ninety-seven days. I was around Antwerp to make my living I bought cigarettes & chocolate from Canadian canteens & sold it to civilians I also bought German weapons from Canadian soldiers & sold them to Americans. One day I had scabies & I was fed up with being on the loose & not eating half the time so I decided to give myself up. I gave myself up on 30 Jan 45 to the CMP in Brussels, & they turned me over to the Canadian Provost Corps. I was lonely, not doing anything much, & not eating regularly. I was in uniform & was helping clean up debris from flying bombs. Civilians gave me money to go in & get things from bombed houses. They could not go in, but civilian police would let a soldier in uniform in.

Cross examined by prosecution

I went A.W.L. from Leopold Barracks in Ghent. I was waiting for trial & was in open arrest. I was fed up with waiting, & there were no guards around so I just went out. I only intended to go down town - but I got drunk & went to Antwerp & I just stayed from day to day. I intended to come back, but I always thought I'd stay another day. I knew I'd be punished, & I thought I'd get as much for 7 days as for 8 days. I was in close arrest for 3 days & in open arrest for two or three weeks waiting for trial. I couldn't go out of barracks & just got fed up. When I surrendered I wanted to get medical attention; & I felt if I did I got too much I'd go straight afterwards. I knew I'd be really punished & that is why I was afraid to come back before.

R.P. 83 (3) complied with.

Lieut.

Submission on behalf of C100997
Pte Ramos Quintal

Charge #2. that the prosecution
has not made a prima facie case
the Defence submits
in that the accused surrendered himself on
30th Jan 45

Reply to Submission.

C-100797 - Pte QUINTAL, R.

It is felt by the Prosecution that the accused had some unknown influence that prompted his actions and thus leaves a reasonable that he had any intention of absenting.

I feel that the trial should continue on the charges of ~~Desertion~~ desertion.

L. Lacoste Lt

For the Prosecution

In the Field
Belgium 7 May 45.

Summing-up for the prosecution.

C-100797 : Pte QUINTAL, R.

The accused has stated under oath the circumstances that brought about his return to the army. Had he been living under better conditions, had he not been sick would he have returned? It is up to the Court to decide whether he is guilty or not of desertion.

In Facing St.

For the Prosecution.

In the Field
Belgium 7 May 18.

DEFENCE

charge 2 Summing up
Case of C 100997 Pte Bernard Quintal

The court will please understand that if this man was re-Pathemized his catagory would be about M3 judged by the manner in which he answers all questions.

The prosecution has not proven that the accused did not return of his own free will and the fact that he had a cabin is not sufficient proof in view of his statement that he was lonely and tired of trying to get meals.

H C Bowler capt

1st Charge on "3 Charge Sht" May 45 (1)

Evidence in the Trial by Court Martial on this date of C100797 Pte Quintal R.

The prosecutor opens his case by submitting the following documentary evidence which was accepted by the court, marked by the president, & entered as Exhibits "A" [redacted] 12th Lt.

Exhibit "A" Certified true copy of extract from X3 First Fus M.R. Part II Order No 35 dated 23 Mar 45 relating to C100797 Pte Quintal R. [redacted] 12th Lt.

First Witness M10608 Cpl Farquharson A, 7 Sec 2 Ch L of C Pro. Coy having been duly sworn states:—

I am M10608 Cpl Farquharson A. of 2 Ch L of C. Provost Coy. I was N.C.O. i/c Coy guardroom, at 1625 hrs 9 Mar 45 when Sgt. Matheson of the same coy. brought in a soldier, who is Pte Quintal, R, the accused present in the Court here today. He was dressed in civilian clothes. Upon checking his property I found in his possession the sum of fifty-one thousand seven hundred and eighty Belgian francs along with other personal odds & ends. The D.A.P.M., Capt Allendorf arrived & took charg of the money, giving me a receipt for it, opposite Pte Quintal's name in the property book. Pte Quintal was then placed in St. Giles Prison for safe custody.

Cross examined by defending officer.

I am positive that this man is the accused — although at that time he did not

have a mustache & was in civilian clothes. He was only there a short time, but to the best of my recollection he was in a dark suit & wearing a light raincoat. So far as I can recollect I don't believe he was wearing any military clothing at all — I don't know about his shoes. The accused made no statement to me. He had his civilian clothing when taken to St. Gilles prison.

R.P. 83(B) complied with.

Lieut. C.

Capt. C.J. Allendorf, D.A.P.M. having been duly sworn states: —

I am Capt. C.J. Allendorf, Canadian D.A.P.M. Brussels. We have made a drill in Brussels that any man apprehended with a large sum of money will be interviewed by an officer. There are two officers there, so naturally I do a lot of it. On the morning of the 12th March 1945 I remember interviewing Pte Quintal whom I recognize as the accused present in court today. I cautioned the accused in the following words: "I have been cautioned that I am not obliged to say anything unless I wish to do so, & whatever I do say will be taken down in writing & may be given in evidence." To show that he understood the caution, I had Pte Quintal sign a statement to this effect. He then made & signed a statement in my present. The original of the statement was sent to the D.A.P.M.

(3)

of 2 CBB Gp. I hereby identify as a true copy of the statement, this document which I now sign & submit to the court.

(Statement submitted to the court, marked by the president, & entered as Exhibit B)

To the best of my knowledge Exhibit "B" is word for word the same in every particular as the original statement signed by the accused Pte Quintal.

Cross examined by the defending officer.

I do not recall stating to the accused that "he would not get out of this place until he gave a statement" We are not allowed to hold prisoners at all. When I saw him he was in solitary confinement - but he was not placed there for the purpose of breaking him down or obtaining a statement. He was placed there by the director of St. Giles prison, as he had made an attempt to escape. The day after I obtained the statement the prisoner was released from solitary confinement. The accused definitely did not make his statement under duress of any kind.

Cross examined by the court.

The accused was arrested in civilian clothes. To the best of my recollection he was in a dark blue suit, a light pullover sweater & no headdress. I don't know about shoes, & I could not swear as to any article of dress. He was in civilian clothes when I interviewed him at St.

Gilles prison. I gave instructions to the Coy that the uniform be recovered at the address the accused gave in his statement. I have the civilian clothing in my possession in Brussels. I do not know what means of identification or what documents he had in his possession. He verbally identified himself to me. I can definitely state that Exhibit "B" is a true copy of the statement I took from Pte Quintal.

R.P. 83 (b) complied with.

Case for the prosecution.

The prosecutor submits the following documentary evidence which was accepted by the court, marked by the president & entered as exhibit "C"

Exhibit "C" Certificate of Apprehension dated 10 Mar 45 relating to C100797 Pte Quintal R.

The case for the prosecution is closed.

The case for the defence opens - the accused elects to give evidence on oath.

First Witness C100797 Pte Quintal R., having been duly sworn states:-

I am C100797 Pte Quintal R. I am nineteen years & five months of age. I joined the army in 1942 at 16 yrs of age. I took basic & advanced training as an engineer. I arrived in the U.K. early in 1943. I came to Europe, late in 1944 as a reinforcement. I was P.W. once or twice but I do not remember the dates. I surrendered after one P.W. to go back to my unit, the F.M.R.

they sent me to Thent instead of my unit so I
sent A W L again. I surrendered myself
because I wanted to go with my outfit. Before
I came to this camp I did not know I would
be charged with desertion because I did not
intend to desert the army. I never at any
time intended to desert the army. I was
apprehended in civilian clothing. I was wearing
an army ~~can~~ issue sweater. I resisted
arrest. I was with two others — one hit the
sergeant & we all started to run. He had a gun.
When he told me to stop I stopped.

When he first came up to me, — the provost, —
he lifted my scarf & saw my sweater. He said
I must be a Canadian soldier. My two friends
started to show him papers so I pulled out
mine — it was a Belgian soldier's pass. I told
him I was Belgian — but he said it was
no good, — I must be Canadian, & took me
with him.

I had a paybook — but it was not my
paybook. It was one I got off of a soldier.
The soldier was at a cafe & he took off his
tunic to fight with another fellow. He put his
tunic on the floor to fight — & I picked it up
& took his paybook. I took the paybook &
took out the soldier's name & number with
some liquid I had & put in my name, my
number & my particulars. I did this because
they took my paybook when I surrendered, &
when I ran away I did it because. To go
around as a soldier I needed a paybook, so
that is why I took this one.

When I was apprehended I had this paybook, the one I had made, with my right name & number. I gave it to the captain, the one who was here & gave evidence this morning.

Cross examined by the prosecuting officer.

Before I joined the army I was on a diamond drill as a helper in Sudbury Ontario. I served with the F.M.R. in the field in action on the other side of Antwerp. I wore civilian clothes so that I could go out in the daytime on the street, & so I could go to places with girls in the evening where soldiers could not go - high places. I would not be here today if I had not been apprehended - but I intended to give myself up. I was going to give myself up on the day that the war was over. I would give myself up when the war was over because I wanted to return to my home. I have a mother, father, ~~[illegible]~~ five sisters & three brothers in Canada.

Cross examined by the court.

I had the civilian clothes only three quarters of an hour before I was apprehended. I bought them in a shop near the D.A.P.M.'s office & I think they saw me & sent a sergeant after me. I was going back to get my uniform which I had left where I got the civilian clothes. I left it there to be pressed & cleaned. I paid 9 to 11 thousand francs for the clothes. - I had no other civilian clothes. I wanted civilian clothes so

army police would not pick me up in the daytime. I also wanted them so I could go to places where officers go in the evenings, clubs where you could dance & have a better time to which a private should not go in uniform.

(The accused is handed Exhibit "B" which he reads over in full.)

This is a correct statement & it is the same as the one which I signed for the captain. It is all true but I would like to explain that the trucks & vehicles which we took were ones that had been taken by other soldiers who were on the loose — & we took the vehicles from them or they were ~~trucks~~ vehicles they had abandoned. We did not steal them from the army.

(The accused having read Exhibit "B" identifies it as being the same as the original & signs the exhibit to this effect)

In St Lô Prison the captain came to me & asked me if I wanted to make a statement. I said no. I didn't want to make a statement without knowing anything about what I should do. He told me I'd not in there until I did make a statement. He said he needed a statement so that he could catch some other fellows doing the same thing, so he wanted us to tell him how I got all the money. I refused to make a statement & he went away. Exam. B.

I was so mad after my interview that I tried to escape that afternoon from the prison. When I was

E

put in solitary confinement. He came the next day to see me in solitary confinement. He told me now you see what you've gotten yourself into & then he asked me if I wanted to make a statement. I said if you're going to get me out of here, out of this hole, I will make a statement. Then we went out to a secretary & started to make a statement. All that I told him in the statement was true. He gave it to me to sign & I signed it. He went away & that afternoon they took me out of solitary & I went into the ordinary prison. The next day I was sent from St. Giles to Ghent & then here.

R.P. 53 (6) complied with

Wm. G.

Summing-up for the Prosecution.

C-100197 – Pte QUINTAL, R.

The evidence given by the accused ~~did~~ leaves a reasonable doubt as to his intentions of returning to the Army. If he was in civilian clothes, plenty of money and running a good business would he have returned to the army if not apprehended.

The Court will decide if he is guilty of desertion.

Lt. Lacroix Lt.

For the Prosecution

In the Field
Belgium 7 May 45.

Exhibit "D"

Summary of Evidence in the case of C-100797 Pte QUINTAL R, X4 List (CIC), attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charges - (1) Deserting His Majesty's Service (1 charge)

(2) Improper possession of (51,780) Belgian Francs

~~(3) Attempting to escape~~ N.P.

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" - Certified true copy of Extract from Pt II Order No 35 dated 23 Mar 45

Exhibit "B" - Certificate of apprehension dated 10 Mar 45.

FIRST WITNESS M-10608 Cpl FARQUHARSON A 7 Sec 2 Cdn L of C Provost Coy

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him has been read to the accused and is attached hereto as Exhibit "C".

Maurice Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence.

I do not require the attendance of Cpl FARQUHARSON for the purpose of cross-examination.

R Quintal
(the accused)

SECOND WITNESS A/Capt J TWEDDLE OC 2 Cdn L of C Provost Coy

I certify that in my opinion the attendance of this officer is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him has been read to the accused and is attached hereto as Exhibit "D".

Maurice Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence.

I do not require the attendance of A/Capt TWEDDLE for the purpose of cross-examination.

R Quintal
(the accused)

THIRD WITNESS Capt M E ARMSTRONG Paymaster No 10 Bn CBR Gp

I certify that in my opinion the attendance of this officer is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him has been read to the accused and is attached hereto as Exhibit "E".

Maurice Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

I do not require the attendance of Capt ARMSTRONG for the purpose of cross-examination.

R Quintal
(the accused)

FOURTH WITNESS Capt C J ALLENDORF DAPM

I certify that in my opinion the attendance of this officer is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence has been read to the accused and is attached hereto as Exhibit "F".

Maurice Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence.

I do not require the attendance of Capt ALLENDORF for the purpose of cross-examination.

R Quintal
(the accused)

FIFTH WITNESS ~~Major H C DAWSON att to 1 Cdn Disciplinary Centre~~ sworn states:-

On the 15th day of Apr 45, I interviewed the accused C-100797 Pte Romeo QUINTAL, attached to 1 Cdn Disciplinary Centre, whom I now recognize. After making known my identity I cautioned him as follows:- "You are not obliged to say anything unless you wish to do so but anything you do say will be taken down in writing and may be used in evidence." The accused understood the caution and signed his name to the statement which was read over to him. It is attached to these proceedings as Exhibit "G"

The accused declines to cross-examine this witness.

H C Dawson Major
(H C DAWSON) Major
Rocky Mountain Rangers
~~att to 1 Cdn Disciplinary Centre~~

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

A. I have nothing to say.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of four pages 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
16 Apr 45

LIST OF WITNESSES

QUTLOH

M-10608 Cpl FARQUHARSON A — 7 Sec 2 Cdn L of C Provost Coy
A/Capt J TWEDDLE — OC 2 Cdn L of C Provost Coy
Capt M E ARMSTRONG — Paymaster No 10 Bn CNR Gp
Capt C J ALLENDORF — DAPM
~~Major H C DAWSON M.R.~~ — ~~1 Cdn Disciplinary Centre M.P.~~
~~C-92919 S/Lt MELLOR W G M.R.~~ — ~~1 Cdn Disciplinary Centre M.P.~~
~~D-67449 S S/Lt HARROP S M.R.~~ — ~~1 Cdn Disciplinary Centre M.P.~~
~~S/Lt Prod R do DITTO M.R.~~ — ~~1 Cdn Disciplinary Centre M.P.~~

DEFENCE — NIL

LIST OF EXHIBITS

Certified true copy of Extract from Pt II Order No 35 dated 23 Mar 45 — "A"

Certificate of apprehension dated 10 Mar 45 — "B"

Statement of M-10608 Cpl FARQUHARSON A — "C"

Statement of A/Capt J TWEDDLE — "D"

Statement of Capt M E ARMSTRONG — "E"

Capt C J ALLENDORF DAPM — "F"

~~Statement of accused taken by Major DAWSON M.R.~~ — ~~"G" M.R.~~

I, C-100797 Pte QUINTAL R, hereby acknowledge receipt of one copy of charge sheet and one copy of summary of evidence free of charge on 26 April 45
M.R.

R Quintal
C-100797 Pte QUINTAL R

Plea in mitigation

C 100791 Pte Guntel R

The accused joined the army as a lad of 18 years and todate is only 19 years of age.

As he has stated under oath he had no intention of deserting, borne out by his statement that was a soldier, missed a pay book and he had one when apprehended. Capt Allendorf's statement as to the accused being dressed in civilian clothing is not correct in its entirety as the accused was wearing a military overall by which he was recognized as being a Canadian Soldier.

You have heard the accused say that he gave his statement to Capt Allendorf after he was told that he would have to stay in solitary confinement and his statement was then given under influence, Para 74075 KR 791 M.M.L are quite clear and in view of the fact that the accused was released from solitary confinement immediately after the statement was given it further proves his statement regarding influence.

The accused has stated that he had intended surrendering himself on V Day. On two of his previous AWL's he gave himself up and there is no reason to suppose no is there any proof that the accused had intended to desert.

The court will understand that if this man was repatriated his category would be about M.S. judged by the manner in which he answered all questions

The prosecution in all cases has not definitely proven that the accused had no intention of returning to his duty. The accused has voluntarily surrendered himself on two of the ~~charges~~ instances

On perusing the accused m 7116 it will be seen that the entries ~~over a~~ for a short duration and also it will be noted that the punishments have also been light. Had this young man been handled correctly or rather diffently he would have realized that a.w.l. is a serious thing but such was not the case. As the accused is only a young lad still in his teens I respectfully ask that the court be lenient.

I also ask that the court find him guilty of A.W.L. instead of ~~des~~ desertion

J.G. Rawlen capt

Exhibit "E" 44

ARMY FORM B.196 (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).*
9100797	Pte	QUINLAN R	FUS MR

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 one of drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised 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	AA 15 (1)	1	16 times.
For	AA 40	1	1 times.
For			times.
For			times.

Date of first entry in Field Conduct Sheet 12 Mar 43

Date of last entry in Field Conduct Sheet 6 Jul 44

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

*Strike out if not applicable.

*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 No dets days in civil custody, and for 58 dets days in military custody, i.e., No dets in open arrest, 58 dets days in close arrest; of which No dets days were spent in hospital.

5. The present age of the accused is 19 years 5 months 16

6. The date of his attestation / ~~calling up for military service~~ is 23 Jul 42

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

8. The accused is in possession of‡ CVSM & CLASP

‡State the military decoration (if 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 1111	
In the war substantive rank of 1111	
In the acting rank of 111	

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

(27833) W1.24039/3404 24,000 7/44 A.& E.W.Ltd. Gp.698 Forms/B.196(War)3

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.
	19Aug43	Civil offence / stealing £206 and wallet	4 mos imp.	.....

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 12th day of Oct 1943

[illegible] Capt

Summary of Evidence in the case of C-100797 Pte QUINTAL R, X4 List (CIC), attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charge - Deserting His Majesty's Service

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" - Certified true copy of Extract from Pt II Order No 14 dated 3 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 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 RP 4 (C) (D) (E) (F) and (G) have been complied with.

(Patrice Rousseau) Capt

Officer detailed to take Summary of Evidence

Dated in the Field
26 Apr 45

LIST OF WITNESSES

N/A

LIST OF EXHIBITS

Certified true copy of Extract from Pt II Order "A"
No 14 dated 3 Mar 45

I, C100797 Pte QUINTAL R hereby acknowledge receipt of
one copy of Charge Sheet and one copy of Summary of
Evidence free of charge on 26 April 45

R Quintal

C-100797 Pte QUINTAL R

Summary of Evidence in the case of C-100797 Pte QUINTAL R, XA List (CIC), attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charge - Deserting His Majesty's Service

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" - Certified true copy of Extract from Pt II Order No 45 dated 26 Dec 44

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

A. I 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

Officer detailed to take Summary of Evidence

Dated in the Field
26 Apr 45

LIST OF WITNESSES

N/A

LIST OF EXHIBITS

Certified true copy of Extract from Pt II Order No 45 dated "A"
~~21 Apr 45~~
21 Dec 44
~~Certificate of apprehension dated 10 Mar 45~~

I, C-100797 Pte QUINTAL R, hereby certify that I have received one copy of Charge Sheet and one copy of Summary of Evidence free of charge on 20 April 45.

R Quintal
C-100797 Pte QUINTAL R

Summary of Evidence in the case of C-100797 Pte QUINTAL R, X4 List (CIC), attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charge - Deserting His Majesty's Service

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" - Certified true copy of Extract from Pt II Order No 45 dated 26 Dec 44

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

A. I 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
16 Apr 45

Summary of Evidence in the case of C-100797 Pte QUINTAL R, X4 List (CIC), attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charge - Deserting His Majesty's Service

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" - Certified true copy of Extract from Pt II Order No 14 dated 3 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 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 RR 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
26 Apr 45

Summary of Evidence in the case of C-100797 Pte QUINTAL R, X4 List (CIC), attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charges - (1) Deserting His Majesty's Service (1 charge)

(2) Improper possession of (51,780) Belgian Francs

(3) Attempting to escape

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" - Certified true copy of Extract from Pt II Order No 35 dated 23 Mar 45

Exhibit "B" - Certificate of apprehension dated 10 Mar 45.

FIRST WITNESS M-10608 Cpl FARQUHARSON A 7 Sec 2 Cdn L of C Provost Coy

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him has been read to the accused and is attached hereto as Exhibit "C".

(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence.

I do not require the attendance of Cpl FARQUHARSON for the purpose of cross-examination.

(the accused)

SECOND WITNESS A/Capt J TWEDDLE OC 2 Cdn L of C Provost Coy

I certify that in my opinion the attendance of this officer is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him has been read to the accused and is attached hereto as Exhibit "D".

(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence.

I do not require the attendance of A/Capt TWEDDLE for the purpose of cross-examination.

(the accused)

THIRD WITNESS Capt M E ARMSTRONG Paymaster No 10 Bn CBR Gp

I certify that in my opinion the attendance of this officer is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him has been read to the accused and is attached hereto as Exhibit "E".

Maurice Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

I do not require the attendance of Capt ARMSTRONG for the purpose of cross-examination.

R Quintal
(the accused)

FOURTH WITNESS Capt C J ALIENDORF DAPM

I certify that in my opinion the attendance of this officer is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence has been read to the accused and is attached hereto as Exhibit "F".

Maurice Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence.

I do not require the attendance of Capt ALIENDORF for the purpose of cross-examination.

R Quintal
(the accused)

FIFTH WITNESS ~~Major H C DAWSON att to 1 Cdn Disciplinary Centre~~ sworn states:-

On the 17th day of Apr 45, I interviewed the accused C-100797 Pte Rosee QUINTAL, attached to 1 Cdn Disciplinary Centre, whom I now recognize. After making known my identity I cautioned him as follows:- "You are not obliged to say anything unless you wish to do so but anything you do say will be taken down in writing and may be used in evidence." The accused understood the caution and signed his name to the statement which was read over to him. It is attached to these proceedings as Exhibit "G"

The accused declines to cross-examine this witness.

(H C DAWSON) Major
Rocky Mountain Rangers
att to 1 Cdn Disciplinary Centre

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

A. I have nothing to say.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of four pages 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
26 Apr 45

Charge Sheet a/.

Pin here. Loose Sheets of Record.

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

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No.(1)

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

D2. The Prosecutor makes (~~no~~) (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) Signed + attached as Exhibit "A"

(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... 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 of 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. I have given evidence on oath. Do you intend to call witnesses on your behalf? Ans. No. Are they witnesses as to character only? Ans. N/A.

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

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, 109(e).)

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

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the paras ..... charge(s), being subject to confirmation, will be promulgated later.(1)

(1a. 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(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.

SCHEDULE.

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

Accused : .....

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st			
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 as 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 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(2)

(2. 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 :

(Sgd) ..... (Sgd) .....

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.)

Charge Sheet #2.

3

Pin here. Loose Sheets of Record.

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

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

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

D2. The Prosecutor makes (~~no~~) (no) opening address.(1) All

(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) Signed & attached as Exhibit "A"

(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 1st charge and Charge Sheet #2 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 first charge(s), ~~and allowed on the~~ ~~charge(s), but the accused is (are) found Not Guilty of this/these charge(s)~~, and that, accordingly, the trial will proceed on the former, ~~but the accused is (are) found Not Guilty of 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. Accused gives evidence and calls Do you intend to call witnesses on your behalf? Ans. No. Are they witnesses as to character only? Ans. N/A

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

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

(1. RP 114, 115, 116. For procedure see Notes on back 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 addresses, statement, evidence and any summing up by the JA under RP 42, 123(e).)

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

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the first charge(s), being subject to confirmation, will be promulgated later.(1) ~~On the President announcing 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(2), (4), 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.

SCHEDULE.

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

Accused : .....

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p. 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st			
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. 713, and in lieu of Art 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 46(A), information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(2)

(2. 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 :

(Sgd) ..... (Sgd) .....

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.)

SCHEDULE.

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

Accused: C100797 Pte Romeo QUINTAL (X-4 List CIC) att 1 Cdn Discipline Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
FIRST CHARGE SHEET			
1st AA 15 (1)	Not Guilty	Guilty	
2nd AA 15 (1)	Not Guilty	Guilty	
3rd AA 12 (1)(a)	Not Guilty	Guilty	
4th AA 40	Not Guilty	Not Guilty	
SECOND CHARGE SHEET			
5th AA 42 (1)	Guilty	Guilty	
6th AA 10 (3)	Guilty	Guilty	

(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 lieu of s/s see RP 44 fn 6.)

At present under sentence for ... beginning on (date) ... (*) GBC
(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 111 days, of which nil days were spent in hospital.(*)
(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 suffer penal servitude for a period of seven (7) years and to be discharged with ignominy from his Majesty's Service.

(Sgd) ... Judge-Advocate, if any. 5 Jul 45 Date awarded. (Sgd) "George B H Cox" Major 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.)

I RESERVE THE FINDING & SENTENCES FOR CONFIRMATION

Date 9 Jul 45 (Sgd) "J S Lind" Brig Commanding 3 CBR GP

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 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 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: "I confirm the findings of the court. I mitigate the sentence so that it shall read as follows: 'To suffer penal servitude for a period of four years and to be discharged with ignominy from His Majesty's Service" and I confirm the sentence as so mitigated. The finding of the court that the plea in bar of trial is not proved is confirmed. I remit the ~~remainder of the sentence~~ HDGC
(1. AA 57A. Delete if not used.)

(Sgd) "HDG Crerar"
Date 20 Jul 45. (H D G Crerar) General
Commanding GOC-in-C First Cdn Army
Confirming Officer.

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

Accused.	Date.	Signature of Offr.
C100797 Pte Romeo Quintal	15 Sep 45	"GD Drudeman" Capt DAPM Cdn Pro 11 Q Branch Garrison

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN ... 57-96
CF Form 1 (to be printed on 40 lb M.G. 100% Rag)
4/388

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig J S H Lind DSO Comd 3 CBRG dated 30 Jun 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) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C100797	Pte	Romeo	QUINTAL	(X-4 List CIC) att 1 Cdn Discipline Centre

Certified true copy of original proceedings herein. 19 Nov 1945 "J.B." "R Lawrence" 2 Dec 45 Capt
J.A.G. Rep. 3 CBRG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED

Held in the Fd in (country) BELGIUM on (date(s)) 4 & 5 Jul 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OF JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. 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 hereon. See back of Convening Order, CF A95, for points 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 52, RP 36, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(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) GBC

(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 ~~not~~ brought before the Court. At 1440 hours trial commences.(1) 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)~~

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

A5. ~~President to accused: Do you object to ... as interpreter? Ans. ...~~ GBC
~~The Interpreter is sworn.(1) Do you object to ... as shorthand writer? Ans. ... 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.(*) The 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. RP 102. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 23, 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: GBC

President	Major	G B H Cox	CAC	Cdn C M Centre
Member	Major	P E Osler	RCA	att 3 CBRG
Member	Capt	G T Clark	RCA	Cdn C M Centre
Judge-Advocate				
Prosecutor	Capt	D B MacKenzie	CIC	Cdn C M Centre
Defending Offr	Capt	D V Rose	RCR	Cdn C M Centre

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

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

A8. The accused C100797 Pte Romeo QUINTAL before arraignment make(s) (and ~~do~~) plea. GBC
~~Read Charge Sheet. Plea of Guilty. Plea of Not Guilty. Trial in bar on the grounds that the accused having already undergone trial~~ (*)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the witnesses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 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 (~~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. GBC

(1. RP 24, 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 A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

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(U). No other charge can be withdrawn for any reason without asthy 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 list 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 144 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; securing and withdrawal of witnesses from Court see RP 85, 92; questioning of accused see RP 80, 87(C), 92(D), and of witnesses see RP 85-85; 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.*

RE CHARGE SHEET 2.

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

B1. The President ~~or JA~~, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(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 (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change (a) (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) changes(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~ 6BC
(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 "F", 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 paras 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 C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate 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.

GBC

RE CHARGE SHEET 1.

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

D2. The Prosecutor makes (~~no~~) opening address.(1) GBC
(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) recorded as exhibits A, B, C, D & E attached.
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the FOURTH 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 dismissed on the charge(s) and that accordingly~~ is allowed on the FOURTH charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the ~~same~~ charge(s).(4) GBC
FOURTH
(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 alternatives 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. (SP 805(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. NEITHER. Do you intend to call witnesses on your behalf? Ans. NO. Are they witnesses as to character only? Ans. N/A
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *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(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 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), ~~a mass of Not Guilty~~, and states to the accused that the finding(s) of the Court on the FIRST, SECOND & THIRD charge(s), being subject to confirmation, will be promulgated later.(1) ~~For the finding(s) and sentence stand the proposal is found Not Guilty on all charges and is for the reasons forthwith, and that the proceedings are concluded. Part I of the Schedule is amended accordingly.~~
(1. *AA 54(2) (c), 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~~ (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 182(2) (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. G and Ex. H respectively.(3) 6BC
(1. *MFB 335 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 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) Accused, via conclusion of punishment.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should remind 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)
(1. *AA 54(c), 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 J.A, 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 40, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to consecutive see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 335, 563-566, Overseas RO 309, 2323, MML p 80, 737-739. 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(18), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. 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.

GBC

CHARGE SHEET NO. 1.

The accused C100797 Pte Romeo QUINTAL, X-4 List CIC, attached to 1 Cdn Discipline 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 1630 hrs 6 Jul 44 until 1215 hrs 6 Sep 44.
(Total absence: 61 days 19 hrs 45 minutes)

SECOND 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 2300 hrs 24 Oct 44 until 0001 hrs 30 Jan 45.
(Total absence: 97 days 1 hr 1 minute)

THIRD CHARGE WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE
Sec 12(1)(a)
Army Act in that he

in the Field, with intent to avoid joining his unit, absented himself without leave from 1600 hrs 3 Feb 45 until apprehended in civilian clothes in BRUSSELS, Belgium at 1600 hrs 9 Mar 45.
(Total absence: 29 days.)

FOURTH CHARGE WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD
Sec 40 ORDER AND MILITARY DISCIPLINE
Army Act in that he

in the Field, at 1525 hrs 9 Mar was found in improper possession of fifty-one thousand seven hundred and eighty (51780) Belgian francs.

" V S J Richmond "

In the Field
18 Jun 45

(V S J Richmond) Lt Col
Commanding
1 Cdn Discipline Centre

To be tried by Field General Court Martial.

" J S LIND "

(J S H LIND) Brigadier
Commanding
3 Cdn Base Rft Gp

In the Field
30 Jun 45

GBC

CHARGE SHEET NO. 2.

The accused, C-100797 Pte Romeo QUINTAL, X-4 List CIC, attached to 1 Cdn Discipline 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, when in arrest, absented himself without leave from 1610 hrs 18 May 45 until apprehended in BRUSSELS, Belgium at 0015 hrs 23 May 45, wearing US Army Military Uniform.
(TOTAL Absence: 4 days 8 hrs 5 minutes)

SECOND CHARGE WHEN ON ACTIVE SERVICE RESISTING AN ESCORT WHOSE DUTY IT WAS TO APPREHEND HIM
Sec 10 (3)
Army Act

in that he

in the Field, at approximately 0015 hrs 23 May 45, while being arrested by K97931 Cpl St Claire P J, 7 Sec 2 Cdn L of C Provost Coy, resisted the said Corporal by threatening him with a loaded German pistol.

" V S J Richmond "

(V S J Richmond) Lt Col
Commanding
1 Cdn Discipline Centre

In the Field
18 Jun 45

To be tried by Field General Court Martial.

" J S Lind "

(J S H Lind) Brigadier
Commanding
3 Cdn Base Rit Gp

In the Field
30 Jun 45

GBC

FIELD GENERAL COURT-MARTIAL

(CFA35 (In lieu of AFA47)
40/FAM/1007 (2008))

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate 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) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C-100797	Pte	Romeo	QUINTAL	(X-4 List CIC) att 1 Cdn Discipline 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) 20 Jun 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. TSL

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 thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	G B H Cox	CAC Cdn C M Centre

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	P S Osler	RCA att 1 CBHQ
Capt	G T Clark	RCA Cdn C M Centre

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.)

" J S Lind " (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 4 Jul 45

(J S H Lind)
Commanding 3 Cdn Base Rft Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

GSC

MEDICAL OFFICER'S CERTIFICATE (Sec (Can) Para 807)
(CMHQ CL 173)

I certify that I have this day examined C-100797
Pte Quintal R. and in my opinion he is fit/~~unfit~~ to undergo
trial by Court Martial.

Station Field "A A Toms" Capt (Sgd)
Medical Officer

Date 4-7-45 1 Can Discipline Centre
Unit

GBC

MEDICAL OFFICER'S CERTIFICATE (KR(Can)Para 567)
(CMHQ CL 173)

I certify that I have this day examined C-100797
Pte QUINTAL R. and in my opinion he is fit ~~xxxxx~~ to undergo
trial by Court Martial.

Station Field "A A Toms" Capt (Sgd)
Medical Officer

Date 5-7-45 1 Con Disc Centre
Unit

GBC

C-100797 Pte Quintal R, X-4 List CIC.

Special Plea in bar under chap 5 para 95 MML. Accused stood previous trial not confirmed. He has disclosed his defence para cited.

Argued on above grounds that 1st charge sheet be treated as if he had been convicted or acquitted previously.

Accused C100797 Pte Quintal R, X-4 List CIC, sworn states:

I recall 7 May last I was court martialed on 4 charges. First was that he in the field deserted His Majesty's Forces under 12 (1) A.A. from 1630 hrs 6 July to 1215 hrs 6 Sep 44. 2nd same charge from 2300 hrs 24 Oct 44 until 0001 hr 30 Jan 45. 3rd charge sheet had 2 charges. 1st desertion 1600 hrs 8 Feb 45 to 1600 hrs 9 Mar 45. 2nd charge on this sheet sec 40 A.A. conduct to prej etc in that at 1625 hrs 9 Mar 45, was found in improper poss of 51,750 Belgian Francs.

I gave evidence on each of these charge sheets and was cross examined.

RP 83 (b) complied with.

DEFENCES plea disallowed.

Defence

2nd Special Plea on 4th charge 1st sheet.

Nothing disclosed in particulars to show offence. Mere possession of money is not enough.

Prosecution submits this cannot be discussed till evidence in. Charge is not one of improper possession but conduct to the prejudice et

Plea not allowed.

Defence states summary very bad and that a witness, Capt Allendorf is being produced and Def Officer has no idea of what he is going to say. Not asking for adjournment on this ground however.

Prosecution

Produces Pt II Order Extract d/13 Mar 45 from X-4 List CIC. Pt II Order No 45 d/26 Dec 44.

Admitted as Exhibit "A" and so initialed by president.

Produsces Pt II Order extract d/10 Mar 45 from Des Fusilers Mont Royal. Pt II Order No 14 d/3 Mar 45.

Admitted as exhibit "B" and so initialed by president.

Produces Pt II Order extract d/22 Mar 45 from X-3 List Fus M.R. Pt II Order No 35 d/23 Mar 45.

Admitted as exhibit "C" and so initialled by pres.

Produces certificate of arrest of accused at Brussels at 1600 hrs 9 Mar 45 signed J. Tweddle A/Capt, OC 2 Cdn L of C Pro Coy d/10 Mar 45.

Admitted as exhibit "D" and so initialed by president.

Pros states he has not been provided with any evidence tending to prove phrase in particulars of 3rd charge "with intent to avoid joining his unit."

Pros

GBC

1st Witness

Capt C J Allendorf DAPM sworn states:

I know the accused - met him in custody in St. Giles prison, Brussels in Mar. I went there to see him. I wanted an explanation of certain things from him. I had a talk with him. I gave him usual caution verbally. Accused made a statement taken down in writing and signed by him. I was present and he signed under statement and also under caution. This was about 12 Mar 45. I do not remember who else was present. I wrote it out myself. I know a statement is of no value unless free and voluntary. He was in solitary confinement and he was taken out into a room used for this purpose and interviewed, there. He was then returned to solitary confinement. I was talking to him about an hour.

Cross examined.

After caution we talked matter over. I asked him to clarify certain matters. I did not cross exam him. I asked him a few questions It was not a Q & A period. I wrote approx 2 pages. Caution was written on original which was forwarded to 1 Cdn Disc Centre. I have not seen it since then. I believe one of the military escorts was present part of time but I am not sure. As I remember I was not out of this room during this time. I was about an hour on statement. When I firs saw accused before cautioning him I asked him about the 51,000 francs and where he got it. I said words to effect would he make a statement. I said nothing about no charges arising out of statement he made.

Questioned by Court.

Did you make any promise, threats, or inducements to accused.

Ans.

No.

Pros shows witness document, who identifies it as a copy of original statement certified by witness. I cannot remember signature of accused. Pros tends this certified copy as evidence.

Def objects.

I wrote certified on copy of 7th May. I did not make copy myself but it was typed in my office. I compared a type written copy made in my office with the original statemend and the statement I certified on 7 May was a copy from my office. I signed the one I took to court with me but cannot swear that is one produced here as I may have signed another.

Defence makes submission 1stly that accused in solit confinement. He was not a soldier under sentence. He was taken out and statement made by Q & A and returned to cell being released from solit confinment the next day. Events leading up to taking statement vague. Cannot recall whether or not escorts in room. Pros should produce escort as everyone present should come before court.

Draws cts attention chap 6 para 76 pg 92 MML and in particular sub para 7. Def suggests questions made amount to cross examination. Original not in court for ct to see and no explanation has been given, as re'd, for failure to produce original. Duty of Pros to prove everything before present document to ct, this the have failed to do.

Prosecution.

Cant explain absent of original. Original statement was established as being properly obtained. No improper conduct of officer taking statement has been shown and must be taken that statement given in free full manner. Original not here today and tending signed certified true copy purportedly signed by accused. This is best evidence provided for me and if necessary I would ask for adjournment to try to find it.

At 1645 hrs 4 Jul 45 the ct adjourned until 0930 hrs 5 Jul 45.

At 1000 hrs 5 Jul ct reassembled pursuant to adjournment. Present same members as of 4 Jul 45. The court is opened. The accused is brought before the court at 1000 hrs trial resumes.

Witness called by court under RP 86 (d)

K91659 Cpl Campbell D.M., 1 Cdn C M Centre att 1 Cdn Dis Centre, sworn states:

I work in legal office at 1 Dis Centre preparing summary of evidence and applications for C.M. I see all documents of soldiers awaiting trial. I handled the documents in Quintal case and put them together for this trial. There is a statement there made by Pte Quintal to Capt Allendorf. We did not have original statement but signed typewritten copy signed by Capt Allendorf. A letter was forwarded to Capt Allendorf requesting the original aprox a week after this. The original has not been received due to fact that typed copy signed by Capt Allendorf we submitted it in fairness to the accused in order that he might be brought to trial as quickly as possible. I have nerver seen the original. It was never at 1 Cdn Dis Centre to my knowledge. If it had been there I would have known about it unless the postal people made a statement.

I searched for this document but did not find it. This was the statement alleged to have been made by Quintal to Allendorf. We did not get a reply from our letter to Allendorf. I have been there continually since Feb. The statement was double spaced and signed by Capt Allendorf when we received it. I searched in Central Registry for it. I did not go to the DAPM office in Brussels to search for this document.

RP 83 (b) complied with.

Def points out that statement received was doubled spaced and that no search made a Prov Office and submitted not shown as lost or destroyed.

Pros: Evid of DAPM original stat forwarded to 1 Dis Centre when accused sent there.

Court rules statement admissable.

Pros tends statement as exhibit "GG" admitted and so initialed by president.

Def.
Submissions on 4th charge pg 7A

Reply by Prosecution.

Prima facie case established by fact that accused came into possession of money by illicit means ie smuggling.

Submission is allowed on 4th charge.

Prosecution does not sum up.

Defence sums up - ch 1 & 2 purely documentary and on 3rd charge pros. unable to prove particulars "intent to avoid joining his unit" and so can establish AWL but not desertion.

Plea in mitigation 8a

@ 5C

Submission of no prima facie case on 4th charge.

Ludicrous charge - to convict or even allow to go on to trial is simply prepostrous - a man could be convicted of having a mere 5.0. francs on his person according to prosecution. No proof that possession wrongful. No order produced. This is an army court and not the Exchequer court - suggest that this ludicrous charge be washed out now - court cant add to charge and military knowledge doesnt cover this.

GBC

Court

Ct closed to consider the finding on the 1st charge sheet

Ct reopens and commences the trial on the 2nd charge sheet.

Accused pleads guilty to both charges.

" G B Cox " Major

President.

Exhibit 'A'
M Rousseau Capt

Exhibit "A"
AEL

XX34/X-GIC/1(A&C) GBC

TO:

13 Mar 45

EXTRACTS FROM: UNIT.... X4 List (GIC) ..... dated..26 Dec 44

Part II Order No....45

ABSENT WITHOUT LEAVE
AWL from 1630 hrs 6 Jul 44. Ret fr AWL at 1215 hrs 6 Sep 44.
AWL from 10 Sep 44. Ret from AWL 25 Sep 44. (hours unknown)

C-100797 Pte QUINTAL R.

Certified to be a true extract from the regimental books and documents in my custody

" J R Fenelon " Capt
Officer IC Records

attached. Please sign receipt on all duplicate

The following documents are required, please forward same.

Originating clerks initials..BAC.....(J.R.FENELON) CAPT. for Officer in Charge

Cmnd 4th Section GHQ 2nd Echelon

Exhibit "B" AEL

Exhibit "B" M Rousseau Capt

Exhibit "B" GBC

TO: OC
1 Cdn Disciplinary Centre
Cdn Army Overseas.

99/30/FMR/1(A.5C)

10 Mar 45

EXTRACTS FROM: UNIT LES FUSILIERS MONT-ROYAL

Part II Order No 14 dated 3 Mar 45

5 ABSENT WITHOUT LEAVE
(a) AWL from 2300 hrs 24 Oct 44 Ret from AWL 0001 hrs 30 Jan 45.
(Arbitrary date)
C100797 Pte QUINTAL R

Certified to be a true extract from the regiments books and documents in my custody

" J B Fenelon " Capt
Officer IC Records.

Cdn Repo Unit 2 Feb 21 Army Gp

Attached please find receipt in duplicate
The following documents are
required. Please forward same.

Originating clerks initials JRRR

Officer in Charge
Canadian Section GHQ 21 Army Group

Exhibit "C" Exhibit "C" Exhibit "C"
ABL N Rousseau Capt GRC

TO:

22 Mar 45 19

EXTRACTS FROM: UNIT X-3 List FUS MR

Part II Order No. 35 dated 23 Mar 45

ABSENT WITHOUT LEAVE
AWL from 1600 hrs 3 Feb 45 (X-3 List)
C100797 Pte QUINTAL R.

Certified to be a true extract from the regimental books and documents in my custody

" R.S.C.WILLIAMS " Lieut
Officer IC Records "X"

Can Sec HQ 2 Veh 21 Army Gp

Attached. Please sign receipt on all duplicate

The following documents are required. Please forward same.

originating clerks initials TLR for Officer in Charge

Canadian Section GHQ 2nd Echelon

CERTIFICATE IN ACCORDANCE WITH P.C. 2897 of 10 Apr 45

I CERTIFY THAT No C-100797 Rank Pte Name QUINTAL R.

Unit Fus Mais Regt 2 Cdn Div was arrested at Brussels (Place)

at 1600 (hour) on 9 Mar 45 (date) and that at the time of his arrest he was wearing [redacted] (civilian clothes)

Signature of Provost-Marshall, Assistant Provost-Marshall 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.

" J Tweddle "

(J Tweddle) A/Capt
Officer Commanding
2 Cdn L of C Provost Coy

Field
10 Mar 45

Exhibit 'D'
E Rousseau Capt

Exhibit "D"
GBC

Exhibit 'D'
AEL

Exhibit "E" GBC

Exhibit "E"
M Rousseau Capt

Exhibit 'E' AEL

CDN SEC HQ BRUSSELS GARRISON

STATEMENT BY: C-100797 Pte QUINTAL R
Fus Mont Royal

I have been cautioned that I am not oblied 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. To show I understand this caution, I sign my name.

Sgd R QUINTAL.

On 24 Oct 44 I went absent from my Unit F.M.R. while we were in rest near ANTWERP. For about a month I made my living by buying cigarettes in Canteens and selling them to civilians. I came to Brussel and after a few days I surrendered to the CMP and was sent to 2 CBRD. After a couple of days I escaped from the Guard Room and went to ANTWERP I met a couple of chaps I dont know their full names - Robert from F.M.R. AND OTHER I dont remember his name. We bought about 5000 (five thousand frncs) tobacco at about one hundred francs a kilo (100) took it across to France and sold it at one thousand francs per kilo (1000). We then bought watches, pencils, cigarette papers and brought that stuff across to Belgium. This trip was made in a Ford 15 cwt driven by Robert. I received fifteen thousand Belgian Francs (15000) for this trip. About this time I was arrested by an Officer near a petrol dump in ANTWERP and turned over to the Cdn Provost. I had about twenty nine thousand (29000) francs then. I escaped the following morning. In December I and Roland Fournier (R de Maie) stole a jeep from the North Station and sign (274). We went to BOUILON Belgium and ran numerous loads of tobacco across the border. We were paid three thousand (3000) francs per load and made three trips. The fourth trip we only got two thousand (2000) francs. We came back to BRUSSELS and stole a 15 cwt from behind some houses. I made about fifty thousand (50000) francs with this truck by running tobbaco over the border. In January ROLAND and I met an American soldier in Cafe Blighty. He had a jeep and so we went with him and started toward LOUVAIN. On Chaussee Louvain we had an accident and Fournier and I were taken to 111 British General Hospital. The jeep was taken by the CMP. Fournier escaped from Hospital about six (6) days later. I left about two (2) days after him. Fournier and I made about five (5) trips more across the line with tobacco. I came back to Brussels and met Robert and another Canadian in civilian clothes. They stay at 172 or 192 Rue D'Aerschot near North Station. I bought some civilian clothes at 9 Rue du Commerce and left my uniform there. Robert was going to get me a Belgian identification card. I was apprehended by Sergeant Matheson. At this time I had fifty one thousand seven hundred and eighty (51780) Belgian Francs on my person.

Sgd/ R QUINTAL

TAKEN AND WITNESSED BY C.J. ALLENDORF - CAPT, DAPM at 1120 hrs 12 Mar 45.

Certified true copy
" J Allendorf " Capt
DAPM Cdn Sec HQ Brussels Garrison

7 May 45

I have read over exhibit "B" and it is the same as the original which I signed by 12 Mar 45. " R Quintal " AEL

Exhibit "F" GBC

RE CHARGE SHEET NO 2.

Summary of Evidence in the case of C-100797 Pte QUINTAL R, K-4 List CIC, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charge (1) Absence without leave.

(2) Resisting an escort whose duty it was to apprehend him.

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" - Certificate of apprehension d/23 May 45.

FIRST WITNESS M62232 Sgt Kergan W.L. - 1 Cdn Discipline Centre, sworn states:

At 1300 hrs 18 May 45 I called the roll of personnel in the cell block and C-100797 Pte QUINTAL R was present. He was turned over to Pte Comeau on a working party at that time. After the escape that day at approximately 1610 hrs 18 May 45 I again called the roll of all personnel of the cell block and found C-100979 Pte QUINTAL R, was missing. I checked everywhere in the camp and established the fact that he had escaped. The next time I saw him was at approximately 1630 hrs 23 May 45 when he was handed over to me at the cell block by Staff Sgt MacDonald.

The accused declines to cross examine this witness.

" W L Kergan "

M62232 Sgt Kergan W.L.

SECOND WITNESS M97931 Cpl St Claire P.J., 7 Sec 2 Cdn L of C Pro Coy.

I certify that the attendance of this witness, in my opinion is not readily procurable and a written statement of his evidence, signed by him has been read to the a cused and is attached to these proceedings as Exhibit "B".

" M Rousseau "

(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

I do not require the attendance of Cpl St Claire for the purpose of cross examination.

" R Quintal "

(the accused)

THIRD WITNESS Sgt Van DeWalle, HQ 2 Cdn L of C Provost Coy

I certi y that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable, and a written statement of his evidence, signed by him has been read to the accused and is attached hereto as Exhibit "C".

" M Rousseau " Capt

(Maurice Rousseau) Capt
Officer detailed to take the Summary of Evidence.

I do not require the attendance of Sgt Van DEWALLE for the purpose of cross examination.

" R Quintal "

(the accused)

Desirez-vous faire une declaration ou rendre temoignage sous serment? Vous n'etes pas oblige de dire quoi que ce soit ni de rendre temoignage a moins que vous ne le desirez mais tout ce que vous direz ou toute deposition que vous ferez sera pris ecrit et pourra servir de preuve.'

Je n'ai rien a dire.

The accused does not call any witness.

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

" M Rousseau " Capt

(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

Dated in the Field
18 june 45

Exhibit "A"

M Rousseau Capt

CERTIFICATE IN ACCORDANCE WITH P.O. 8797 of 10 Apr 45

I CERTIFY THAT No C-100979 Rank Pte Name QUINTAL R

Unit No 1 Cdn Discip Centre 21 Army Gp was arrested at Brussels (Place)

at 0015 hrs (hour) on 23 May 45 (Date) and that at the time of his arrest he was wearing (Military Uniform) U.S. Army xxxxxxxxxxxxxxxxxxxx

Signature of Provost-Marshall, Assistant Provost-Marshall 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.

" J Tweddle "

(J Tweddle) A/Capt
Officer Commanding
2 Cdn L of C Provost Coy

Field
23 May 45

Exhibit "B"

M Rousseau Capt

HQ 2 L of C/Reports

Officer Commanding
2 Cdn L of C Provost Coy

RE: C.100979 Pte Quintol E., No 1 Cdn DiscCentre 21 A Gp
Escapee

1. At Brussels, at approx 0015 hrs 23 May 45. On information received accompanied by Sgt Van de Walle, Belgium CID, I proceeded to 192 Rue D'Aershot, where I found the m/n soldier.

2. On arriving at the a/m address Sgt Van De Walle rang the door bell. A woman living at the address opened the door and standing behind her I saw the m/n soldier. I stepped in front of the soldier to prevent his escape, it was then that he pressed a pistol against my stomach.

3. I ordered the soldier to drop the pistol and when he did not, I forced it from his hand. Examing the pistol, a German automatic, Cal 7.65 P Model 2 T No 74902. I found it to be fully cocked with a round in the chamber.

4. The m/n soldier was dressed in an American Army Uniform at the ti e of his arrest. I placed him under close arrest and escorted him to Coy HQ Guard Room to be detained awaiting escort to his unit.

5. The a/m pistol was confiscated and later handed into Coy HQ., For your information, Please.

" P J St Claire "

(P J St Claire) Cpl K97931
No 7A Sec 2 Cdn L of C Provost Coy

Field
6 June 45

Exhibit "C"

M Rousseau Capt

HQ2LofC/5-4

Officer Commanding
2 Cdn L of C Provost Coy

RE: ARREST OF ESCAPEE
C.106979 Pte Quintal. 1 Cdn Disc Centre

1. On the 23rd May 45, at about 0015 hrs, according to information received that very evening, accompanied by Cpl St Claire, I was at SCHAERBEEK, BRUSSELS, 192 Rue D'Aersenot. In view of arresting an escaped soldier from 1 Cdn Disc Centre [illegible]

2. When the door was opened for us by a young woman, I saw a soldier dressed in American Uniform. I recognized this soldier as the m/n. As I had previously seen his picture.

3. On entering the house, following Cpl St. Claire, I saw Pte Quintal aim an automatic pistol, size 7.65 at Cpl St Claires stomach. I heard Cpl St Claire clearly give the order "Drop that gun on the floor, as Quintal did not execute the order, Cpl St Claire forced him to drop the gun by a bending of the hand. When the weapon was examined, it was fully loaded and ready to fire.

4. After this, Quintal was put under close arrest and brought to the HQ of 2 L of C Provost Coy, under escort.

5. For you information, please

" R Van DeWalle "

Field
9 June 45

(R Van DeWalle) Marechal Logis
Belgium Gendarmerie.

Ex "G"

STATEMENT AS TO CHARACTER AND ANTECEDENTS OF SERVICE OF ACCUSED

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

Number	Rank	Name	Regiment (or as the case may be)
C-100797	Pte	QUINTAL R	X-4 CIC - 1 Cdn Disc Centre

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, 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.

* Strike out if not applicable

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 AA Sec 15 (1) ..... 12 ..... times

For AA Sec 40 ..... 1 ..... times

For .... times

For .... times

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 ..... day of .....

4. The accused has been awaiting trial on the present charges for ..20 days in civil custody and for 113. days in military custody, making a total of ..113. days of which ..20.. days were spent in hosp.

5. The present age of the accused is .19 yrs 6 mos

6. The date of his attestation is 21 Jul 42

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

8. The accused is in possession of # CVSM & CLASP

State the military decorations (if any) held by accused.

9. (If the accused is a warrant officer or NCO). 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 Court	Punishment remitted or sentence suspended
West London Police Court	29 Jul 43 London, England	Stealing £208 and wallet	4 mos imprisonment	

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

Signed this ..... day of ..July 45.....

.....M A Cooke Lt.....

O I/C RECORDS.

Ex [illegible] CRC
3/17 MFM 6

No. C100797 Name QUINTAL R | Sqn, Battery, or Company | Corps RCE | Date of enlistment 23-7-42 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet 29-12-42 | No. and date of last drunk Nil | Period not reckoning towards freedom from extra fine Nil | Sheet No 2 | Signature OC Company, etc Wac Dussault Capt RCE

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
				Original sheet destroyed 23-1-43	KR (Can) 1524 (c) (i)				
Petawawa Petawawa 9.3.43		Spr		AWL from 0700 hrs 9 Mar 43 till 0630 hrs 11.3.43 Ab 1 dy 23 hr 30 mins.	Spr McDonald 5 days CB Doc Evid Cpl Brosseau		12.3.43	Pol Brisset Major RCE	F 2.d.p. des Nos
Petawa 20.3.43		Spr		AWL from 0700 hrs 18-3-43 till 0630 hrs 20.3.43 Absant 1 day 23 hrs 30 mins.	Cpl St Jean 7 days CB Doc Evid AA Sec 15(1) L Sgt Legault		20.3.43	Pol Brisset Major RCE	F 2.d.p. des Nos
Verified to date Mar 26 1943 Reviewed in accordance with CARO 2084 16 Apr 43 " HO Lawrence " Lt.									
Field 14.6.43		Spr		AA 15(1)"OAB AWL from 2200 hrs 14-6-43 till 1930 hrs 18-6-43 Absent 3 days 21 hrs 30 mins.	Doc	4 days FP	21.6.43	Lt Col CH Mitchell	
Field 29.7.43		Spr		Civil Offence: Stealing P203 and wallet		4 mos imp West London Police Court			F 21.d.p. f 122 d.p.

(PTO)

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	22-11-43	Spr		AA15(1)AWL from 2200 hrs 22-11-43 to 2300 hrs 28-11-43 (6 dy 1 hr)	Doc	14 days FP F 14 d.p.	29-11-43	Lt Col AS Rutherford	TF 143 d.p. F 7.d.p.
Field	4-12-43	Spr		AA15(1)AWL from 1700 hrs 4-12-43 till apprehended by Cdn Provost Corps at 1420 hrs 12-12-43. Absent 7 days 21 hrs & 20 mins.	Doc Evd Sgt Dore	12 days summ of pay	15-12-43	Maj JP Morazain	F 0.d.p.
Field	19-12-43	Spr		AASec 15(1)AWL from 2300 hrs 19-12-43 till appre by CMP at 1400 hrs 1-1-44 (Abs 12 dy & 15 hrs)	Doc Evd Sgt Dore	Admonished	8-1-44	Lt Col GW Smith	F 13 d.p.
Field	2-2-44	Spr		15(1) AWL 9 hrs	L Sgt Martel L Cpl Levack		12-2-44	Maj JF Morazain	F 1.d.p.
Field	19-2-44	Spr		15(1) AWL from 2315 hrs 19-2-44 to 1030 hrs 20-2-44. (11 hr 15 min)	L/Cpl Halio L/Sgt Martel	2 d.p.	24-2-44	Lt Col GW Smith	F 1.d.p.
Field	28-2-44	Spr	(1)	15(1) AWL from 1045 hrs 29-2-44 to 1200 hrs 28-2-44 (1 hr 15 min)	Cpl Michaud Cpl Charbonneau	28 days FP		Maj Dussault	F 6.d.p. F 20.d.p.
			(2)	15(1) AWL from 0230 hrs 29-2-44 to 1145 hr 29-2-44 (3 hr 15 min)	L/C Guignard Cpl Deschenes				
			(3)	15(1) AWL from 2315 hr 1-3-44 to 1115 hr 7-3-44 (7 dy 12 hrs)					

Exh R QEC

3/17 MFM 6
(AFB 122)

No. C100979 Name QUINTAL R | Sqn, Battery, or Company | Corps RCE | Date of enlistment 23-7-42 | GC Badges | Service or Proficiency Pay | Character

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 OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7-5-44	Spr		15(1) AWL from 1700 hrs to 2300 hrs 7-5-44 (6 hrs)	Cpl Deschene	7 days forf of pay	8-5-44	Maj Dassault	F 1.d.p.
Field	6-7-44	Pte		Sec 40 Neglect etc - did appear on pde with dirty rifle	Sgt Hughes EH	3 days CB	6-7-44	Capt KR Taylor	

CERTIFIED TRUE COPY OF ORIGINAL MFM 6 in my custody
" M A Cooke " Capt & Adjt
Officer having custody of original MFM 6.

(P10)

RE CHARGE SHEET NO 1. GBC

Summary of Evidence in the case of C-100979 Pte QUINTAL R, X4 List, (CIC) attached to 1 Cdn Discipline Centre, a soldier of the Canadian Army Overseas.

Charges: - (1) Absence without leave (two charges)
(2) Deserting His Majesty's Service (one charge)
(3) Improper possession of (51,780) Belgian Francs

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

The following documents are read over to the accused, marked as exhibit and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from Pt II Order No 45 dated 26 Dec 44.

Exhibit "B" - Certified true copy of Extract from Pt II Order No 14 dated 3 Mar 45.

Exhibit "C" - Certified true copy of Extract from Pt II Order No 39 dated 23 Mar 45.

Exhibit "D" - Certificate of apprehension dated 10 Mar 45.

FIRST WITNESS - Capt C J ALLENDORF, DAPM

I certify that in my opinion the attendance of this officer is, owing to the exigencies of the service, not readily procurable and a written statement of the accused witnessed by Capt Allendorf and signed by the accused, has been read over to him and is attached hereto as Exhibit "E".

" M Rousseau " Capt

(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

I do not require the attendance of Capt Allendorf for the purpose of cross-examination.

" R Quintal "

(The accused)

SECOND WITNESS A/Capt J TWEDDLE, OC, 2 Cdn L of C Provost Coy

I certify that in my opinion the attendance of this officer is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him has been read to the accused and is attached thereto as exhibit "F".

" M Rousseau " Capt

(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence.

I do not require the attendance of A/Capt Tweddle for the purpose of cross-examination.

" R Quintal "

(The accused)

THIRD WITNESS Capt M E ARMSTRONG, Paymaster, No 10 Bn CBH Gp.

I certify that in my opinion the attendance of this officer is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him has been read to the accused and is attached hereto as Exhibit "D".

" M Rousseau " Capt

(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence.

I do not require the attendance of Capt Armstrong for the purpose of cross-examination.

" R Quintal "

(The accused)

FOURTH WITNESS M10608 Cpl FARQUHARSON A, 7 Sec 2 Cdn L of C Provost Coy.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him has been read to the accused and is attached hereto as Exhibit "E".

" M Rousseau " Capt

(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

I do not require the attendance of Cpl FARQUHARSON for the purpose of cross-examination.

" R Quintal "

(The accused)

Desirez vous faire une declaration ou rendre temoignage sous serment? Vous n'etes pas obligé de dire quoi que ce soit ni de rendre temoignage a moins que vous ne le desirez mais tout ce que vous direz ou toute deposition que vous ferez sera pris ecrit et pourra servir de preuve.

Je n'ai rien a dire.

The accused does not call any witness

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

" M Rousseau " Capt

(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence.

Dated in the Field
18 June 45

Exhibit "F"
" M Rousseau " Capt

COPY

RECEIVED FROM CAPT J TWEDDLE THE SUM OF 51,780 Francs (Belg)
(Fifty one thousand, seven hundred and eighty Belgian Francs)
the property of: C-100797 Pte QUINTAL R.
F.M.R. Regt.

SGD " T E CONLON " Sgt

Field
15 Mar 45

The above is a certified true copy of the original receipt which is retained on file this HQ.

" J Tweddle "

(J Tweddle) 2/Capt
Officer Commanding
2 Con L of C Provost Coy

Field
30 Mar 45

MFM503 - Cash receipt No 24 issued to C100797 Pte Quintal R by Capt N.F. Armstrong Pmr 10 Bn 2 CBR Gp. Acknowledges receipt of 51780 Belg Francs.

" A C Hood " Lt Col

3 Apl

Exhibit "G"
M Rousseau Capt

6-5/MFM 503
7 Apr 45

Legal Dept
1 Cdn Disc Centre

Attention: Capt M Rousseau

C-100797 PTE QUINTAL R - Fus MR

1. Ref your letter d/4 Apr 45.

2. Herewith certified true copy of MFM 503 receipt No 24 d/16 Mar 45, as requested.

CANADIAN ARMY OVERSEAS
Financial Receipt

Cash Receipt No 24 16 March 1945

Received from C100797 Pte QUINTOL R FMR

The sum of fifty-one thousand, seven hundred and eighty francs Belgian currency, being

FUNDS RECEIVED FROM ABOVE SOLDIER UPON HIS ENTERING No 1 Cdn DISCIPLINARY CENTRE.

" A Gordon REID " Capt
Command Pmr or Field Cashier

16 March 1945

CERTIFIED TRUE COPY " ME Armstrong " Capt
(M E ARMSTRONG) Paymaster
No. 10 Cdn Base Rft Bn.

Exhibit "H"
M Rousseau Capt

HQ2LC 5-4

Officer Commanding
2 Cdn L of C Provost Coy

C-100797 Pte QUINTAL R
"A" Coy, Fus Mont Royal Regt

1. At approx 1625 hrs 9 Mar 45 I was NCO i/c Coy HQ Guard Room when the a/m soldier was handed over to me by Sgt Matheson of this Coy.

2. He was dressed in Civilian Clothes and upon searching him I found him to be in possession of fifty-one thousand seven hundred and eighty francs (Belg) (51,780)

3. This money was subsequently handed over to Capt Allendorf, DAPM Cdn Sec Brussels Garrison, and a signature for same entered opposite the soldier's name in the Property Book in Coy Guard Room.

4. For your information, please

" A Farquharson "

(A Farquharson) Cpl M-10608
7 Sec 2 Cdn L of C Provost Coy

Field
31 Mar 45

GBC

PLEA IN MITIGATION

Draw atten to age of accused - enlisted at 16 and now only 19 years.

Somebody slipped and acc arrived overseas long before he was 18½ years.

Ct must realize that a young lad is either broken or made by the army - fault of system and lack of care on officers and senor NCO'S ruin a young lad.

Record while not clean has nothing bad except trial in English Civil Court.

Suggest Ct exercise leniency also that they advise confirming officers to have acc recategorized as I feel the answer to his troubles arises from something we cant or are in a position to judge as we have no medical guidance.

Officer Commanding
2 Cdn L of C Provost Coy

t: Arrest of Escapee
C.100797 Pte Quintal 1 Cdn Disc Centre

1. On the 23rd May 45, at about 0016 hrs, according to information received that very evening, accompanied by Cpl St Claire, I was at SCHAERBEEK BRUSSELS, 192 Rue D'Aerschot. In view of arresting an escaped soldier from 1 Cdn Disc Centre.

2. When the door was opened for us by a young woman, I saw a soldier dressed in American Uniform. I recognized this soldier as the m/n as I had previously seen his picture.

3. On entering the house, following Cpl St Claire, I saw Pte Quintal aim an automatic pistol, size 7.60 at Cpl St Claire's stomach. I heard Cpl St Claire clearly give the order " Drop that gun on the floor". As Quintal did not execute the order Cpl St Claire forced him to drop the gun by a bending of the hand. When the weapon was examined, it was fully loaded and ready to fire.

4. After this, Quintal was put under close arrest and brought to the HQ of 2 L of C Provost Coy, under escort.

5. For your information, please.

"R VAN DEWALLE" Marechal Logis
Belgium Gendarmerie

Field
9 June 45

Certified true copy of Exhibit "C"

M Rousseau Capt

RECORDED AT HQ IN AB 160 5 T-46-77 Extra Copy

CHARGE SHEET No 1

The accused, C-100797 Pte Nemeo QUINTAL, X-4 Dist CIC, attached to 1 Cdn Discipline 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 1630 hrs 6 Jul 44 until 1215 hrs 6 Sep 44.

(Total absence: 61 days 19 hrs 45 minutes)

SECOND 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 2300 hrs 24 Oct 44 until 0001 hrs 30 Jan 45.

(Total absence: 97 days 1 hr 1 minute)

THIRD CHARGE
Sec 15 (1) (a)
Army Act

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

in the Field, with intent to avoid joining his unit, absented himself without leave from 1600 hrs 8 Feb 45 until apprehended in civilian clothes in BRUSSELS, Belgium at 1600 hrs 9 Mar 45.

(Total absence: 29 days)

FOURTH CHARGE
Sec 40
Army Act

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

in that he

in the Field, at 1625 hrs 9 Mar 45 was found in improper possession of fifty-one thousand seven hundred and eighty (51,780) Belgian francs.

W Richmond
(W S J Richmond) Lt col
Commanding
1 Cdn Discipline Centre

In the Field
16 Jun 45

To be tried by Field General Court-Martial

CHARGE SHEET No 2

The accused, C-100797 Pte Romeo QUINTAL, K-4 List CIC, attached to 1 Cdn Discipline 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, when in arrest, absented himself without leave from 1610 hrs 18 May 45 until apprehended in BRUSSELS, Belgium at 0015 hrs 23 May 45, wearing US Army Military Uniform.

(Total absence: 4 days 8 hrs 5 minutes)

SECOND CHARGE
Sec 12 (1)
Army Act

WHEN ON ACTIVE SERVICE RESISTING AN ESCORT WHOSE DUTY IT WAS TO APPREHEND HIM

in that he

in the Field, at approximately 0015 hrs 23 May 45, while being arrested by K-97911 Cpl St CLAIR P J, 7 Sec 2 Cdn Coy of 2 Provost Coy, resisted the said Corporal by threatening him with a loaded German pistol.

(W B J Richmond) Lt Col
Commanding
1 Cdn Discipline Centre

In the Field
17 Jun 45

To be tried by Field General Court-Martia l

Summary of Evidence in the case of C-100797 Pte QUINTAL R, X4 List (CIC), attached to 1 Cdn Discipline Centre, a soldier of the Canadian Army Overseas.

Charges -(1) Absence without leave (two charges)
(2) Deserting His Majesty's Service (one charge)
(3) Improper possession of (51,750) Belgian Francs

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" - Certified true copy of Extract from Pt II Order No 45 dated 26 Dec 44

Exhibit "B" - Certified true copy of Extract from Pt II Order No 14 dated 3 Mar 45

Exhibit "C" - Certified true copy of Extract from Pt II Order No 35 dated 23 Mar 45

Exhibit "D" - Certificate of apprehension dated 10 Mar 45

FIRST WITNESS Capt C J ALLENDORF DAPM

I certify that in my opinion the attendance of this officer is, owing to the exigencies of the service, not readily procurable and a written statement of the accused witnessed by Capt ALLENDORF and signed by the accused, has been read over to him and is attached hereto as Exhibit "E".

M Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

I do not require the attendance of Capt ALLENDORF for the purpose of cross-examination.

R Quintal
(the accused)

SECOND WITNESS A/Capt J TWEDDLE D C 2 Cdn L of C Provost Coy

I certify that in my opinion the attendance of this officer is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him has been read to the accused and is attached hereto as Exhibit "F".

M Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

I do not require the attendance of A/Capt TWEDDLE for the purpose of cross-examination.

R Quintal
(the accused)

THIRD WITNESS Capt M E ARMSTRONG Paymaster No 10 Bn CHR Gp

I certify that in my opinion the attendance of this officer is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him has been read to the accused and is attached hereto as Exhibit "C".

M. Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

I do not require the attendance of Capt ARMSTRONG for the purpose of cross-examination.

A Lunn
(the accused)

FOURTH WITNESS M-10606 Cpl FARQUHARSON A 7 Sec 2 Cdn L of C Provost Coy

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him has been read to the accused and is attached hereto as Exhibit "D"

M. Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

I do not require the attendance of Cpl FARQUHARSON for the purpose of cross-examination.

A Lunn
(the accused)

Desirez vous faire une declaration ou rendre temoignage sous serment? Vous n'etes pas oblige de dire quoi que ce soit ni de rendre temoignage a moins que vous ne le desirez mais tout ce que vous direz ou toute deposition que vous ferez sera pris ecrit et pourra servir de preuve.

Je n'ai rien a dire

The accused does not call any witness.

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

M. Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

Dated in the Field
14 Jun 45
M.R.

PART II ORDER EXTRACT FORM

((99/34/X CIC/1(A5C)

13 Mar 45

EXTRACTS FROM: UNIT X 4 List (CIC)

Part 11 Order No 45 dated 26 Dec 44

ABSENT WITHOUT LEAVE

AWL from 1630 hrs 6 Jul 44. Ret fr AWL at 1215 hrs 6 Sep 44

AWL from 10 Sep 44 Ret from AWL 25 Sep 44 (hours unknown)

C100797 Pte QUINTAL R

Certified to be a true extract from the regimental books and documents in my custody

"FENELON" Capt
Officer ic Records C
Cdn Sec 2 Ech H Q 21 A Gp

Certified true copy of Exh "A"

M. Rousseau Capt

PART II ORDER EXTRACT FORM

TO: OC
I Cdn Disciplinary Centre
Cdn Army Overseas

99/20/FMR/1(A.Sc)
10 Mar 45

EXTRACTS FROM: UNIT LES FUSILIERS MONT ROYAL

Part 11 Order No 14 dated 3 Mar 45

5. ABSENT WITHOUT LEAVE

(a) AWL from 2300 hrs 24 Oct 44 Ret from AWL 0001 hrs 30 Jan 45
(Arbitrary date)
C100797 Pte QUINTAL R

Certified to be a true extract from the regimental books and documents in my custody

"ECHELON" Capt
Officer ic Records C
Cdn Sec 2 Ech HQ 21 A Gp

Certified true copy of Exh "B"
M Rousseau Capt

Part 11 Order Extract Form

99/20/

22 Mar 45

EXTRACTS FROM: UNIT X-3 List Fus MR

Part 11 Order No 35 dated 23 Mar 45

ABSENT WITHOUT LEAVE
AWL from 1600 hrs 8 Feb 45 (X-3 List)
G100797 Pte QUINTAL R

Certified to be a true extract from the Regtl books and documents in my custody
"RSC WILLIAMS" Lt
Officer ic Records X
Cdn Sec 2 Can HQ 21 A Gp

Certified copy of Exh "C"

M Rousseau Capt.

CERTIFICATE IN ACCORDANCE WITH PC 2797 of 10 Apr 42

I certify that No C-100797 Rank Pte Name QUINTAL R
Unit Fus Mais Regt 2 Cdn Div was arrested at Brussels
at 1600 (Hour) on 9 Mar 45 (date) and that at the time of his
arrest he was wearing civilian clothes.

Field
10 Mar 45

"J TWEDDLE" A/Capt
Officer Commaning
2 Cdn L of C Provost Coy

Certified true copy of Exhibit "D"

M. Rousseau Capt

CDN SEC HQ BRUSSELS GARRISON

STATEMENT BY:

C-100797 PTE QUINTAL R
Fus Mont Royal

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. To show I understand this caution, I sign my name.

Sgd /R QUINTAL

"On 24 Oct 44 I went absent from my Unit F.M.R. while we were in rest near ANTWERP. For about a month I made my living by buying cigarettes in canteens and selling them to civilians. I came to Brussels and after a few days I surrendered to the CMP and was sent to 2 CBRG. After a couple of days I escaped from the Guard Room and went to ANTWERP. I met a couple of chaps I don't know their full names -ROBERT from F.M.R., and one other I don't remember his name. We bought about five thousand Francs (5,000) of tobacco at about one hundred Francs a Kilo (100) took it across to France and sold it at one thousand Francs per kil (1000). We then bought watches, pencils, cigarette papers and brought that stuff across to Belgium. This trip was made in a ford 15 cwt driven by ROBERT. I received fifteen thousand Belgian Francs (15,000) for this trip. About this time I was arrested by an Officer near a petrol dump in ANTWERP and turned over to the Cdn Provost. I had about twenty nine thousand (29000) Francs then. I escaped the following morning. In December I an Poland FOURNIER (R de Mais) stole a Jeep from the North Station. VAC sign (274). We went to BOULLON Belgium and ran numerous loads of tobacco across the border. We were paid three thousand (3000) Francs per load and made three trips. The fourth trip we only got two thousand (2000) Francs. We came back to BRUSSELS and stole a 15 CWT from behind some houses. I made about fifty thousand (50,000) Francs with this truck by running tobacco over the border. In January ROLAND and I met an American soldier in Cafe Blighty. He had a Jeep and so we went with him and started toward LOUVAIN. On Chaussee Louvain we had an accident and FOURNIER and I were taken to 111 British General Hospital. The Jeep was taken by the CMP. FOURNIER escaped from Hospital about six (6) days later. I left about two (2) days after him. FOURNIER and I made about five (5) trips more across the line with tobacco. I came back to BRUSSELS and met ROBERT and another Canadian in civilian clothes. They stay at 172 or 192 Rue D'Aerschot near North Station. I bought some civilian clothes at 9 Rue du Commerce and left my uniform there. ROBERT was going to get me a Belgian Identification Card. I was apprehended by Sergeant Matheson. At this time I had fifty one thousand seven hundred and eighty (51,780) Belgian Francs on my person."

Sgd/ R QUINTAL

TAKEN AND WITNESSED BY C J ALLMENDORF - Capt
DATE at 1120 hrs 12 Mar 45.

Certified true copy of Exhibit "R"

M. Rousseau Capt

COPY

RECEIVED FROM CAPT J TWEDDLE THE SUM OF: 51,780 Francs (Belg.)

(Fifty one thousand, seven hundred and eighty Belgian Francs)

The property of: C-100797, Pte QUINTOL, R.

F.M.R. Regt

(SGD) "T R GORDON" (Sgt)

Field
15 Mar 45

The above is a certified true copy of the Original receipt which is retained on File this HQ.

"J TWEDDLE" A/Capt
Officer Commanding
2 Cdn L of C Provost Coy

Field
30 Mar 45

MFW 503 Cash receipt No 24 issued to C100797 Pte Quintol R by Capt M K ARMSTRONG P Nr 10 Bn 2 CBRDp acknowledges receipt of 51,780 Belg Francs

3 Apr 45

"A HOOD" Lt col

Certified true copy of Exhibit "F"
M. Rousseau Capt

6-5/MFM 503
7 Apr 45

Legal Dept
1 Cdn Disc Centre

Attention: Capt M. Rousseau

C 100797 Pte QUINTOL R. (Fus MR)

1. Ref your letter d/4 Apr 45.

2. Herewith certified true copy of MFM 503 Receipt No 24 d/16 Mar 45, as requested.

CANADIAN ARMY OVERSEAS
Financial Receipt

Cash
Receipt No 24 16 March 1945
Received from C100797 Pte QUINTOL R FMR

The sum of Fifty-one thousand, seven hundred and eighty francs Belgian currency being

Funds received from above soldier upon his entering No 1 Cdn Disciplinary Centre

signed "A GORDON REID" Capt
Command Pay of Field cashier

16 March 1945

Certified True Copy "M E ARMSTRONG" Capt
No 10 Cdn Base Rft Bn Paymaster

Certified true copy of Exhibit "G"

HQ 2LO 5-4

Officer Commanding
2 Cdn L of C Provost Coy

C-100797 Pte QUINTAL R
"A" Coy Fus Mont Royal Regt

1. At approx 1625 hrs 9 Mar 45 I was NCO i/c Coy HQ Guard Room when the s/m soldier was handed over to me by Sgt. Matheson of this Coy.

2. He was dressed in civilian clothes and upon searching him I found him to be in possession of fity-one thousand seven hundred and eighty francs (Belg) (51,780)

3. This money was subsequently handed over to Capt Allendorf, DAPM Cdn Sec Brussels Garrison, and a signature for same entered opposite the soldiers name in the property Book in Coy Guard Room.

4. For your information, please.

"A F ARQUHARSON" Cpl M-10608
7 Sec 2 Cdn L of C Provost Coy

Field
31 Mar 45

Certified true copy of Exh "H"

M Rousseau Capt

Summary of Evidence in the case of C-100797 Pte QUESNAL R, K-A CIC, attached to 1 Cdn Discipline Centre, a soldier of the Canadian Army Overseas.

Charge - (1) Absence without leave

(2) Resisting an Escort whose duty it was to apprehend him.

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" - Certificate of apprehension dated 23 May 45.

FIRST WITNESS M-62232 Sjt DUNCAN W L 1 Cdn Discipline Centre

sworn states:-

At 1300 hrs 18 May 45 I called the roll of personnel in the cell block and C-100797 Pte QUESNAL R was present. He was turned over to Pte COSSAR on a working party at that time. After the escape that day at approximately 1610 hrs 18 May 45 I again called the roll of all personnel of the cell block and found C-100797 Pte QUESNAL R, was missing. I checked everywhere in the camp and established the fact that he had escaped. The next time I saw him was at approximately 1830 hrs 23 May 45 when he was handed over to me at the cell block by Staff Sjt MacDONALD.

The accused declines to cross-examine this witness.

W. L. Duncan
(Witness Sjt DUNCAN W L)

SECOND WITNESS K-77931 Cpl ST CLAIR R J 7 Coy 2 Cdn L of C Pro Coy

I certify that the attendance of this witness, in my opinion is not readily procurable and a written statement of his evidence, signed by him has been read to the accused and is attached to these proceedings as Exhibit "B".

M Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to the Summary of Evidence

I do not require the attendance of Cpl ST CLAIR for the purpose of cross-examination.

R Quesnal
(The accused)

THIRD DIVISION Sgt VAN DONGEN HQ 2 Cdn L of C Provost Coy

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him has been read to the accused and is attached hereto as Exhibit "D".

M. Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

I do not require the attendance of Sgt VAN DONGEN for the purpose of cross-examination.

R Pinsent
(The accused)

Desirez-vous faire une declaration ou rendre temoignage sous serment? Vous N'etes pas oblige de dire quoi que ce soit ni de rendre temoignage a moins que vous ne le desiriez mais tout ce que vous direz ou toute deposition que vous ferez sera pris ecrit et pourra servir de preuve.

Je n'ai rien a dire.

The accused does not call any witness.

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

M Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

Dated in the Field
~~27 May 45~~
28 January

CERTIFICATE IN ACCORDANCE WITH PC 2797 of 10 Apr 42

I certify that NO: C100797 Rank Pte Name QUINCOL R

Unit: No 1 Cdn Discip Centre 21 A Gp was arrested at Brussels

at 0015 hrs 23 May 45 and that at the time of his arrest he was wearing US ARMY (Military Uniform)

"J TWEDDLE" A/ Capt
Officer Commanding
2 Cdn L of C Provost Coy

Field
23 May 45

Certified true copy of Exh"A" M. Rousseau Capt

HQ 2 L of C/ REPORTS

Officer Commanding
2 Cdn L of C Provost Coy

Re: C.100797 Pte Quintol, R., No 1 Cdn Disc Centre 21 A Gp
Escapes

1. At Brussels, at approx 0015 hrs 23 May 45. On information received accompanied by Sgt Van De Walle, Belgium CIC, I proceeded to 192 Rue D'Aershot, where I found the m/n soldier.

2. On arriving at the a/m address Sgt Van De Walle rang the door bell. A woman living at the address opened the door and standing behind her I saw the m/n soldier. I stepped in front of the soldier to prevent his escape, it was then that he pressed a pistol against my stomach.

3. I ordered the soldier to drop the pistol and when he did not, I forced it from his hand. Examining the pistol a German automatic, Cal 17.65 P. Model 2T No 74902. I found it to be fully cocked with a round in the chamber.

4. The m/n soldier was dressed in an American Army Uniform at the time of his arrest. I placed him under close arrest and escorted him to Coy HQ Guard Room to be detained awaiting escort to his unit.

5. The a/m pistol was confiscated and later handed into Coy HQ. For your information, please.

"PJ ST CLAIRE" Cpl K.97931
No 7 A Sec 2 Cdn L of C Pro Coy

Field
6 Jun 45

Certified true copy of Exhibit "A"

M Rousseau Capt

Officer Commanding
2 Cdn L of C Provost Coy

RE: Arrest of Escapee
C.100797 Pte Quintal 1 Cdn Disc Centre

1. On the 23rd May 45, at about 0016 hrs, according to information received that very evening, accompanied by Cpl St Claire, I was at SCHAERBEEK BRUSSELS, 192 Rue D'Aerschot. In view of arresting an escaped soldier from 1 Cdn Disc Centre.

2. When the door was opened for us by a young woman, I saw a soldier dressed in American Uniform. I recognized this soldier as the m/n as I had previously seen his picture.

3. On entering the house, following Cpl St Claire, I saw Pte Quintal aim an automatic pistol, size 7.60 at Cpl St Claire's stomach. I heard Cpl St Claire clearly give the order " Drop that gun on the floor". As Quintal did not execute the order Cpl St Claire forced him to drop the gun by a bending of the hand. When the weapon was examined, it was fully loaded and ready to fire.

4. After this, Quintal was put under close arrest and brought to the HQ of 2 L of C Provost Coy, under escort.

5. For your information, please.

"R VAN DEWALLE" Marechal Logis
Belgium Gendarmerie

Field
9 Jun 45

Certified true copy of Exhibit "C"

M. Rousseau Capt

Officer Commanding
2 Cdn L of C Provost Coy

RE: Arrest of Escapee
C.106797 Pte Quintal 1 Cdn Disc Centre

1. On the 23rd May 45, at about 0016 hrs, according to information received that very evening, accompanied by Cpl St Claire, I was at SCHAERBEEK BRUSSELS, 192 Rue D'Aerschot. In view of arresting an escaped soldier from 1 Cdn Disc Centre.

2. When the door was opened for us by a young woman, I saw a soldier dressed in American Uniform. I recognized this soldier as the m/n as I had previously seen his picture.

3. On entering the house, following Cpl St Claire, I saw Pte Quintal aim an automatic pistol, size 7.60 at Cpl St Claire's stomach. I heard Cpl St Claire clearly give the order " Drop that gun on the floor". As Quintal did not execute the order Cpl St Claire forced him to drop the gun by a bending of the hand. When the weapon was examined, it was fully loaded and ready to fire.

4. After this, Quintal was put under close arrest and brought to the HQ of 2 L of C Provost Coy, under escort.

5. For your information, please.

"R VAN DEWALLE" Marechal Logis
Belgium Gendarmerie

Field
9 June 45

Certified true copy of Exhibit "C"

M Rousseau Capt

C100797 QUINTAL R — Sqn, Battery, or Company: NIL — Corps: RCE — Date of enlistment: 23-7-42 — Service or Proficiency Pay — 3/17 MFM 6 (AFB 122)

No. — Name — Period not reckoning towards freedom from extra fine: NIL — Sheet No 2 — GC Badges — Signature OC Company, etc: Jno Dussault Capt RCE — Character

Date of last entry in Company Conduct Sheet: 29-12-42 and date of last drunk

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Petawawa				Original sheet destroyed 23-1-43 KR (Can) 1524 (e) (i)					
Petawawa	9.3.43	Spr		AWL from 0700 hrs 9 Mar 43 till 0630 hrs 11 Mar 43 Absent: 1 day 23 hrs 30 mins	Spr McDonald S days CB Doc Ewid Cpl Brosseau		12.3.43	Fol Brisset dos Hos Major RCE	Auto forf 2 days pay under FR41
Petawawa	20.3.43	Spr		AWL from 0700 hrs 18 Mar 43 till 0630 hrs 20 Mar 43 Absent: 1 day 23 hrs 30 mins	Cpl St Jean 7 days CB Doc Ewid AA Sec 15 (1) L sjt Legault		20.3.43	Fol Brisset dos Hos Major RCE	Auto Forf 2 days pay under FR41

Verified to date Mar 26 1943
Reviewed in accordance with CANO 2084 16 Apr 43 "H O LANGUEDOC" 14

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order directing trial by DSC	By whom awarded	Remarks
Field	14 Jun 43			AA 15 (1) WOAS AWL from 2200 hrs 14 Jun 43 till 1930 hrs 18 Jun 43 (Absent 3 days 21 hrs 30 mins)	Doc	4 days FP	21 Jun 43	Lt Col CH MITCHELL	
Field	29 Jul 43	Spr		Civil Offence: Stealing $208 and wallet		4 mos imprt	West London Police Court	Forf 21 dys pay PMAI 149(1)(e)(i) Forf 122 dys pay	
Field	22 Nov 43	Spr		AA 15 (1) AWL from 2300 hrs 22 Nov 43 to 2300 hrs 28 Nov 43 (Absent 6 days 1 hr)	Doc	14 days FP F'fts 14 dys Pay	29 Nov 43	Lt col AS Rutherford	PMAI 149(1)(b) Total forf 143 dys P'fts 7 dys pay PMA I 149(1)(a)
Field	4 Dec 43	Spr		AA Sec 15 (1) AWL from 1700 hrs 4 Dec 43 till apprehended by Cdn Provost Corps at about 1420 hrs 12 Dec 43 (Absent 7 days 21 hrs and 20 mins)	Doc Dvd Sgt Dore	12 days Summ forf of pay PMAI 149(2)	15 Dec 43	Maj JF Mountain	8 days extra forf of pay PMAI 149(1)(a)
Field	10 Dec 43			AA Sec 15(1) WOAS AWL from 2300hrs Dec 9 to 1400 hrs 10 Dec 43 till arrested by CMP at 1400 hrs 1 Jan 44 (also 19 days and 15 hrs)	Doc Dvd Sgt Dore	Admonished	6 Jan 44	Lt col Geo V Smith	13 days pay under PMAI 149(1) (a)

3/17 MFM 6
(AFB 122)

No. C100797 Name QUINTAL R | Sqn, Battery, or Company | Corps RCE | Date of enlistment 23-7-42 | GC Badges | Service or Proficiency Pay | Character

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

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
							12-2-44	Maj JF Poressin	1 day auto forf pay
Field	2-2-44	Spr		15(1) AWL 9 hrs	L Sjt Nortel L Cpl LeveoL				
Field	19Feb44	Spr		15(1) AWL fr 2315 hrs 19Feb44 until 1430 hrs 20 Feb44(11 hrs 15 mins)	L Cpl Wallo	2 dys Summ forf 2hFeb44		Lt col GW Smith	forf 1 dy Py 149(1a)
Field	(1) 25Feb44	Spr		15(1) AWL fr 1045 h 29 Feb44 to 1200 h 29 Feb44 (1 hr 15 Min)	L Sjt Nortel of Pay 149(2) Cpl Cheresonneau L Cpl Guimond			Geo W Smith Lt col	forf 1 Dy Py 154(b) 6 dy Py 149(1a)
"	(2) 29Feb44	"		[illegible]	Cpl Richard	28 days FP			28 dys pay 149(1b)
"	(3) 1 Mar 44	Spr		15(1) AWL fr 2315 h 1 Mar 44 to 1115 h 7 Mar 44 (5 days 12 hrs)	Cpl Deschenes	7 dys forf pay 149(2)	8 May44	Maj Dussault	1 dy Py 149(1)(a)
Field	7 May44	Spr		15(1) AWL from 1700 hrs to 2300 hrs 7 May 44 (6 hrs)					

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	6Jul44	Pte		Sec 40 Neglect sto- did MMK appear on pde with dirty rifle	Sgt Hughes HR 3 Dys CB		6 Jul44	Capt KR Taylor	

Certified true copy of original MFM 6 in my custody

Capt & Adjt

Officer having custofy of Original MFM 6

ARMY FORM B.296

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
C100797	Pte	GUINTAL, R	X-4 CIC - 1 Cdn Disc Centre

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.—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 annexed to the proceedings.

† See para. 607, K.R., 1940.

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

INSTRUCTION. — If the charge is for drunkenness, the entries for drunkenness must be started separately and dated.

	* Within last 12 months		* Since Enlistment	
For	AA Sec 15 (1)	times	12	times
For	AA Sec 40	1 times	1	times
For		times		times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct,

or

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

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

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 _____ days in military custody, making a total of _____ days, of which _____ days were spent in hospital.

5. The present age of the accused according to his record of service / ~~attestation paper~~ is 18 years 5 months old

6. The date of his ~~commission~~ / attestation specified in his record of service / ~~attestation paper~~ is 23 Jul 42

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 _____ service.

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

10. The accused is ~~in possession of, or~~ entitled to, ~~no~~ / We military decoration ~~or military award for is in possession of or entitled to (state any military decoration, if awarded)~~ / We CVSM & CLASP

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 _____.

W.1500/1159 20M. 1/40. P. Ltd. T.H.A.

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.

No. C100797 *Rank* Pte *Name* GUIDAL R *of* Amd CIC **Regiment (or as the case may be)**

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

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, 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
West London Police Court	29 Jul 43 London England .	Stealing £200 and wallet	4 mos imprisonment	

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

Signed this 18 day of June

W Cook Lt
O/C Records

13. This record has served as a non-commissioned officer commonly, without reduction, to the present day.

Date of Promotion

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

(INSTRUCTION—If any matter as any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such source as are available and the paragraph inserted amended accordingly.)

Summary of Evidence in the case of C-100797 Pte QUINTAL R, X4 List (CIC), attached to 1 Cdn Discipline Centre, a soldier of the Canadian Army Overseas.

Charges -(1) Absence without leave (two charges)
(2) Deserting His Majesty's Service (one charge)
(3) Improper possession of (51,780) Belgian Francs.

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" - Certified true copy of Extract from Pt II Order No 45 dated 26 Dec 44

Exhibit "B" - Certified true copy of Extract from Pt II Order No 14 dated 3 Mar 45

Exhibit "C" - Certified true copy of Extract from Pt II Order No 35 dated 23 Mar 45

Exhibit "D" - Certificate of apprehension dated 10 Mar 45

FIRST WITNESS Capt C J ALLENDORF DAFM

I certify that in my opinion the attendance of this officer is, owing to the exigencies of the service, not readily procurable and a written statement of the accused witnessed by Capt ALLENDORF and signed by the accused, has been read over to him and is attached hereto as Exhibit "B".

M. Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

I do not require the attendance of Capt ALLENDORF for the purpose of cross-examination.

R Quintal
(the accused)

SECOND WITNESS A/Capt J TWEDDLE O C 2 Cdn L of C Provost Coy

I certify that in my opinion the attendance of this officer is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him has been read to the accused and is attached hereto as Exhibit "F".

M. Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

I do not require the attendance of A/Capt TWEDDLE for the purpose of cross-examination.

R Quintal
(the accused)

THIRD WITNESS Capt M E ARMSTRONG Paymaster No 10 Bn CBR Gp

I certify that in my opinion the attendance of this officer is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him has been read to the accused and is attached hereto as Exhibit "G".

M. Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

I do not require the attendance of Capt ARMSTRONG for the purpose of cross-examination.

A Quintal
(the accused)

FOURTH WITNESS M-10608 Cpl FARQUHARSON A 7 Sec 2 Cdn L of C Provost Coy

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him has been read to the accused and is attached hereto as Exhibit "H"

M. Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

I do not require the attendance of Cpl FARQUHARSON for the purpose of cross-examination.

A Quintal
(the accused)

Desirez vous faire une declaration ou rendre temoignage sous serment? Vous n'etes pas oblige de dire quoi que ce soit ni de rendre temoignage a moins que vous ne le desirez mais tout ce que vous direz ou toute deposition que vous ferez sera pris ecrit et pourra servir de preuve.

Je n'ai rien a dire

The accused does not call any witness.

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

M. Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

Dated in the Field
15 Jun 45

PART II ORDER EXTRACT FORM

((99/34/X CIC/1(A5C)

13 Mar 45

EXTRACTS FROM: UNIT X 4 list (CIC)

Part 11 Order No 45 dated 26 Dec 44

ABSENT WITHOUT LEAVE

AWL from 1630 hrs 6 Jul 44. Ret fr AWL at 1215 hrs 6 Sep 44

AWL from 10 Sep 44 Ret from AWL 25 Sep 44 (hours unknown)

C100797 Pte QUINTAL R

Certified to be a true extract from the regimental books and documents in my custody

"PENELON" Capt
Officer ic Records C
Cdn Sec 2 Ech H Q 21 A Gp

Certified true copy of Exh "A"

M. Rousseau Capt

PART II ORDER EXTRACT FORM

To: OC
1 Cdn Disciplinary Centre
Cdn Army Overseas

99/20/FMR/1(A.5e)
10 Mar 45

EXTRACTS FROM: UNIT LES FUSILIERS MONT ROYAL

Part II Order No 14 dated 3 Mar 45

5. ABSENT WITHOUT LEAVE

(a) AWL from 2300 hrs 24 Oct 44 Ret from AWL 0001 hrs 30 Jan 45
(Arbitrary date)
C100797 Pte QUINTAL R

Certified to be a true extract from the regimental books and documents in my custody

"FENELON" Capt
Officer ic Records C
Cdn Sec 2 Ech HQ 21 A Gp

Certified true copy of Exh "B"
M. Rousseau Capt

Part 11 Order Extract Form

99/20/

22 Mar 45

EXTRACTS FROM: UNIT X-3 List Fus MR

Part 11 Order No 35 dated 23 Mar 45

ABSENT WITHOUT LEAVE
AWL from 1600 hrs 8 Feb 45 (X-3 List)
C100797 Pte QUINTAL R

Certified to be a true extract from the Regtl books and documents in my custody
"RSC WILLIAMS" Lt
Officer ic Records Y
Cdn Sec 2 Ech HQ 21 A Gp

Certified copy of Exh "C"

M Rousseau Capt

CERTIFICATE IN ACCORDANCE WITH PO 2797 of 10 Apr 42

I certify that No C-100797 Rank Pte Name QUINTAL R
Unit Fus Mais Regt 2 Cdn Div was arrested at Brussels
at 1600 (Hour) on 9 Mar 45 (date) and that at the time of his
arrest he was wearing civilian clothes.

Field
10 Mar 45

"J TWEDDLE" A/Capt
Officer Commaning
2 Cdn L of C Provost Coy

Certified true copy of Exhibit "D"

M. Rousseau Capt

CDN SPC HQ BRUSSELS GARRISON

STATEMENT BY:

C-100797 PTE QUINTAL R
Fus Mont Royal

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. To show I understand this caution, I sign my name.

Sgd /R QUINTAL

"On 24 Oct 44 I went absent from my Unit F.M.R. while we were in rest near ANTWERP. For about a month I made my living by buying cigarettes in canteens and selling them to civilians. I came to Brussels and after a few days I surrendered to the CMP and was sent to 2 CBRG. After a couple of days I escaped from the Guard Room and went to ANTWERP. I met a couple of chaps I don't know their full names -ROBERT from F.M.R., and one other I don't remember his name. We bought about five thousand Francs (5,000) of tobacco at about one hundred Francs a Kilo (100) took it across to France and sold it at one thousand Francs per kil (1000). We then bought watches, pencils, cigarette papers and brought that stuff across to Belgium. This trip was made in a ford 15 cwt driven by ROBERT. I received fifteen thousand Belgian Francs (15,000) for this trip. About this time I was arrested by an Officer near a petrol dump in ANTWERP and turned over to the Cdn Provost. I had about twenty nine thousand (29000) Francs then. I escaped the following morning. In December I an Poland FOURNIER (R de Mais) stole a Jeep from the North Station. TAC sign (274). We went to BOULLON Belgium and ran numerous loads of tobacco across the border. We were paid three thousand (3000) Francs per load and made three trips. The fourth trip we only got two thousand (2000) Francs. We came back to BRUSSELS and stole a 15 CWT from behind some houses. I made about fifty thousand (50,000) Francs with this truck by running tobacco over the border. In January ROLAND and I met an American soldier in Cafe Blighty. He had a Jeep and so we went with him and started toward LOUVAIN. On Chaussee Louvain we had an accident and FOURNIER and I were taken to 111 British General Hospital. The Jeep was taken by the CMP. FOURNIER escaped from Hospital about six (6) days later. I left about two (2) days after him. FOURNIER and I made about five (5) trips more across the line with tobacco. I came back to BRUSSELS and met ROBERT and another Canadian in civilian clothes. They stay at 172 or 192 Rue D'Aerschot near North Station. I bought some civilian clothes at 9 Rue du Commerce and left my uniform there. ROBERT was going to get me a Belgian Identification Card. I was apprehended by Sergeant Matheson. At this time I had fifty one thousand seven hundred and eighty (51,780) Belgian Francs on my person."

Sgd/ R QUINTAL

TAKEN AND WITNESSED BY C J ALLENDORF - Capt DAPM at 1120 hrs 12 Mar 45.

Certified true copy of Exhibit "E"

M Rousseau Capt

COPY

RECEIVED FROM CAPT J TWEDDLE THE SUM OF: 51,780 Francs (Belg.)

(Fifty one thousand, seven hundred and eighty Belgian Francs)

The property of: C-100797, Pte QUINTOL, R.

F.M.R. Regt

(SGD) "T E CONLON" (Sgt)

Field
15 Mar 45

The above is a certified true copy of the Original receipt which is retained on File this HQ.

"J TWEDDLE" A/Capt
Officer Commanding
2 Cdn L of C Provost Coy

Field
30 Mar 45

MFM 503 Cash receipt No 24 issued to
C100797 Pte Quintol R by Capt M E ARMSTRONG
P Mr 10 Bn 2 CBRGp acknowledges receipt
of 51,780 Belg Francs

"A HOOD" Lt col

3 Apr 45

Certified true copy of Exhibit "F"
"M Armstrong" Capt

6-5/MFM 503
7 Apr 45

Legal Dept
1 Cdn Disc Centre

Attention: Capt M. Rousseau

C 100797 Pte QUINTOL R. (Fus MR)

1. Ref your letter d/4 Apr 45.

2. Herewith certified true copy of MFM 503 Receipt No 24 d/16 Mar 45, as requested.

CANADIAN ARMY OVERSEAS
Financial Receipt

Cash
Receipt No 24 16 March 1945
Received from C100797 Pte QUINTOL R FUR

The sum of Fifty-one thousand, seven hundred and eighty francs Belgian currency being

Funds received from above soldier upon his entering No 1 Cdn Disciplinary Centre

signed "A GORDON REID" Capt
Command Pay of Field cashier

16 March 1945

Certified True Copy "W F ARMSTRONG" Capt
No 10 Cdn Base Rft Bn Paymaster

Certified true copy of Exhibit "G"
M. Rousseau Capt

HQ 2LC 5-4

Officer Commanding.
2 Cdn L of C Provost Coy

G-100797 Pte QUINTAL R
"A" Coy Fus Mont Royal Regt

1. At approx 1625 hrs 9 Mar 45 I was NCO i/c Coy HQ Guard Room when the a/m soldier was handed over to me by Sgt. Matheson of this Coy.

2. He was dressed in Civilian Clothes and upon searching him I found him to be in possession of fity-one thousand seven hundred and eighty francs (Belg) (51,780)

3. This money was subsequently handed over to Capt Allendorf, DAPM Cdn Sec Brussels Garrison, and a signature for same entered opposite the soldiers name in the property Book in Coy Guard Room.

r. For your information, please.

"A FARQUHARSON" Cpl M-108505
7 Sec 2 Cdn L of C Provost Coy

Field
31 Mar 45

Certified true copy of Exn "n"
M. Fournier Capt

Summary of Evidence in the case of C-100797 Pte QUINTAL R, X-4 CIC, attached to 1 Cdn Discipline Centre, a soldier of the Canadian Army Overseas.

Charge - (1) Absence without leave

(2) Resisting an Escort whose duty it was to apprehend him.

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" - Certificate of apprehension dated 23 May 45.

FIRST WITNESS M-62232 Sjt KURGAN W L 1 Cdn Discipline Centre sworn states:-

At 1300 hrs 18 May 45 I called the roll of personnel in the cell block and C-100797 Pte QUINTAL R was present. He was turned over to Pte COWEAT on a working party at that time. After the escape that day at approximately 1610 hrs 18 May 45 I again called the roll of all personnel of the cell block and found C-100797 Pte QUINTAL R, was missing. I checked everywhere in the camp and established the fact that he had escaped. The next time I saw him was at approximately 1830 hrs 23 May 45 when he was handed over to me at the cell block by Staff Sjt MacDONALD.

The accused declines to cross-examine this witness.

W. L. Kurgan
M-62232 Sjt KURGAN W L

SECOND WITNESS K-97931 Cpl ST CLAIRE P J 7 Sec 2 Cdn L of C Pro Coy

I certify that the attendance of this witness, in my opinion is not readily procurable and a written statement of his evidence, signed by him has been read to the accused and is attached to these proceedings as Exhibit "B".

M. Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

I do not require the attendance of Cpl ST CLAIRE for the purpose of cross-examination.

R Quintal
(the accused)

THIRD WITNESS Sgt VAN DEWALLE HQ 2 Cdn L of C Provost Coy

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable and a written statement of his evidence, signed by him has been read to the accused and is attached hereto as Exhibit "C".

M. Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

I do not require the attendance of Sgt VAN DEWALLE for the purpose of cross-examination.

[redacted]

[redacted]
(The accused)

Desirez-vous faire une declaration ou rendre temoignage sous serment? Vous N'etes pas oblige de dire quoi que ce soit ni de rendre temoignage a moins que vouse ne le desirez mais tout ce que vous direz ou toute deposition que vous ferez sera pris ecrit et pourra servir de preuve.

Je n'ai rien a dire.

The accused does not call any witness.

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

M. Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

Dated in the Field
24 May 45

CERTIFICATE IN ACCORDANCE WITH PC 2797 of 10 Apr 42

I certify that NO: C100797 Rank Pte Name QUINTOL R

Unit: No 1 Cdn Disclp Centre 21 A Gp was arrested at Brussels

at 0015 hrs 23 May 45 and that at the time of his arrest he was wearing US ARMY (Military Uniform)

"J TWEDDLE" A/ Capt
Officer Commanding
2 Cdn L of C Provost Coy

Field
23 May 45

Certified true copy of Exh"A" Rousseau Capt

Officer Commanding
2 Can L of C Provost Coy

HQ 2 L of C/ REPORTS

Re: C.100797 Pte Quinvol, R., No 1 Cdn Disc Centre 21 A GP
Escapee

1. At Brussels, at approx 0045 hrs 27 May 45. On information received accompanied by Sgt Van De Walle, Belgium CIC, I proceeded to 192 Rue D'Aerenot, where I found the m/n soldier.

2. On arriving at the a/m address Sgt Van De Walle rang the door bell. A woman living at the address opened the door and standing behind her I saw the m/n soldier. I stepped in front of the soldier to prevent him escape, it was then that he pressed a pistol against my stomach.

3. I ordered the soldier to drop the pistol and when he did not, I forced it from his hand. Examining the pistol a German automatic, Cal 17.65 P. Model 27 No 74904. I found it to be fully cocked with a round in the chamber.

4. The m/n soldier was dressed in an American Army uniform at the time of his arrest. I placed him under close arrest and escorted him to Coy HQ Guard Room to be detained awaiting escort to his unit.

5. The a/m pistol was confiscated and later handed into Coy HQ. For your information, please.

Field
6 Jun 45

PJ St CLAIRE Cpl K.97931
No 7 A Sec 2 Can L of C Pro Coy

Certified true copy of Exhibit "B"

M Rousseau Capt

4N-60

Pte Guirk F.

The Deputy Judge-Advocate General, Canadian Military Headquarters, having advised that the conviction on the charge in these proceedings is invalid, I hereby direct the record of such conviction be and the same is hereby removed and the accused relieved of all consequences of his trial thereon.

(J.H.Roberts) Maj-Gen
Comd
Cdn Rft Units

In the Field,
18 Jan 45.

In accordance with CMHQ 10/Quirk F/1 (DJAG) 20/Quash/1/2 of 13 Jan 45, the decision of the Deputy Judge-Advocate General, and the concurrence of the Commander, CRU, were promulgated to the accused. Extracts were taken and published in our Part II Order No.7 d/22 Jan 45.

(R M Harvie) Colonel,
Officer Commanding,
B. N. & P. S. Hospital.

SCHEDULE.

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

Accused : D.77363 Pte Francis QUIRK - Bas Neuro & Plastic Surg Hosp RCAMC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs.p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 40	NOT GUILTY	(NOT 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 723, and in case of Kit see RP 44 To 6.)

1) ~~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 B.255 or AF B.296.)

Time in confinement awaiting present trial—a total of 13 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(f) fn 2. Information should be found on MF B.355 or AF B.296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To be put under stoppage of pay until he has made good £26-7-3 in pursuance of the loss occasioned by the conviction of the offence

(Sgd) _____ 18 Dec 44 (Sgd) _____ President. (RP 45, 50.)

Judge-Advocate, if any. Date awarded.

(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) 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(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 52, 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 fn 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 (and the orders)~~ (1)

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

(Sgd) _____ Major General

Date 22 Dec 44 Commanding 2 Can Inf Div Confirming Officer

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

Accused. Date. Signature of Offr.

D 77363 Pte Quirk, F 23 Dec 44 CC Gould Lt Col

Do 96 of 29 Dec 44 A/O.C.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 Re-Record 64 4N-60

RECEIVED 5 JAN 1945 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CFAAS (In lieu of AFAA) 40/F & S. 1098 (8)(44) 4/38B

Convened by Order of Maj-Gen JR ROBERTS DSO MC Comd CRU dated 14 Dec 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) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
D.77363	Private		Francis	QUIRK	Basingstoke Neuro & Plastic Surg Hosp RCAMC

PROCEEDINGS REVIEWED

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

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 18 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR 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 such variation on procedure will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF Hdq. for paths 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, 63-70, 73, 74, 94, 101, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(4)

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

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

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

(1. KR Can 337. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to~~ F.28126 ~~as interpreter ? Ans~~

~~The interpreter is sworn.~~(1) Do you object to SJT AM SINCLAIR as shorthand writer ? Ans No

The shorthand writer is sworn.(1)

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

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

Ans No, Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 98, MML p 742.)

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

President	Lt-col	D.L. REDMAN	HQ CRU
Member	Capt	W.G. HOLMES	HQ CRU
Member	Lt	H.W. PURCELL	1 CITR
~~Judge-Advocate~~			
Prosecutor	Capt	M. ROUSSEAU	4 CITR
Defending Offr	Capt	H.C. REES	2 CARC

Questions by President : Is the Prosecutor a lawyer ? Ans Yes Is the Defending Offr a lawyer ? Ans Yes(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI 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), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or ~~;~~ 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 fns to RoP cited. Insert in full 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 (~~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 71(C), and use separate copies of CF Hdq to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening 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 instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of J A 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* 85-85 ; *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 J A or Pros 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.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3. MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be cleared 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....., 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 vir of paras 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 C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate 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, SIR (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) (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) NIL EVI
(*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 1 2 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 1 2 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 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. I'll make a statement. Do you intend to call witnesses on your behalf ?
Ans. YES SIR Are they witnesses as to character only ? Ans. NO SIR
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) NOT G
(*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, 8a(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part 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) (d), 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, SIR
(*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 "B" and Ex "C" respectively.(3)
(*1. MFR 353 or MFR 296. 2. MFM 4. 3. RP 46, 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, Sir - I've got my Red Disc (NOTE ABOVE)
(*1. RP 37(C), 46(D). 2. Witness, if any, recorded per Notes. Court should express doubt as to his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(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)
(*1. AA 54(4). 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 [illegible]
(*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 48. As to sentences see AA 44, 138, 182, RP 46-50, 68, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, 3606, p 60, 737-739. 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 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused,

D 77363 Private Francis QUIRK,

R.C.A.M.C., Basingstoke Neurological and Plastic Surgery Hospital, a soldier of the Canadian Army Overseas,

is charged with:

FIRST CHARGE
A.A. Sec 40. When on Active Service,

NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

in the Field, between 1 July 44 and 11 September 44, when employed as Steward of the Basingstoke Neurological and Plastic Surgery Hospital Canteen, so negligently performed his duties as to be unable to account for cash and / or stock to the value of £52.14.6d.

7 Dec 44. Remanded for Summary of Evidence.

(R.M. Harvie) Colonel,
Officer Commanding,
Basingstoke Neurological
and
Plastic Surgery Hospital.

To be tried by Field General Court Martial.

(J.H. Roberts) Maj-Gen
Comd
Cdn Rft Units

Farnborough, Hants
14 Dec 1944

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 103(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(8).

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D77363	Private		Francis	QUIRK	Basingstoke Neuor & Plastic Surgery Hosp RCAMC

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) 14 Dec 44 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 103(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 nominate as accused(s) the offr(s) mentioned in the annexure I have attached hereto.~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I appoint the following officers to be members of the Court.~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt.Col	D.L. Redman VD		HQ CRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	W.G. Holmes		HQ CRU
Lt	To be detailed by OC		1 CITR
	~~WAITING MEMBER~~		
	~~JUDGE ADVOCATE~~		

On Active Service in the Fd

in England (Country.)

Date 14 Dec 1944

(Signed personally. RP 103 (fn 2.))
(J.H. Roberts)
Maj-Gen (Rank.)
Commanding Canadian Reinforcement Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

4/38A (Page 1 to end of AF W 3121)

Medical Officers' Certificate
KR (Can) Para 557

I certify that I have this morning examined No. D.77363 Pte. Francis QUIRK, R.C.A.M.C., Basingstoke Neurological and Plastic Surgery Hospital, and in my opinion he is fit to undergo trial by Court Martial

Medical Officer R.C.A.M.C.

Basingstoke,
18 Dec 44

REPORTER: SGT AN SINCLAIR

CASE OF

D.77363 Private QUIRK F Basingstoke Neuro & Plastic Surg Hosp R.C.A.M.C.

-PROSECUTION-

FIRST WITNESS

H/Capt W.B.G. HOLLINGWORTH, Cdn Chap Services, on strength Basingstoke Neurological & Plastic Surgery Hospital, RCAMC, having been duly sworn, states:

I was taken on strength this unit 1 Aug 42 and in addition to my duties as Chaplain I am the Sec Treasurer of the Canteen Committee, being appointed to that posn 1 Sep 42, and I've held that posn ever since. I recognize the accused. The administrative organization of the canteen is as outlined in the Rules for Messes and Canteens which consists of a Canteen Committee of 3 offrs and 3 ORs, the 3 offrs being appointed by the CO and the 3 ORs are elected by the men themselves, the men of the PB of the unit. During the months of Jul, Aug and Sep 44 the steward of the canteen was the accused. His duties were to purchase under my supervision the canteen supplies and to receive same into the canteen. He was IC of the cleanliness of the canteen and was IC of the other two Ptes who worked in the canteen. The canteen is operated by three of the staff including the accused as Canteen Steward. All three men are on duty each morning, one man is relieved at 1330 hrs for the day, the second man is relieved at 1830 hrs and the third man remains on duty until 2130 hrs when the canteen is closed and they alternate on various days. The accused was appointed as steward by the CO following the recommendation of the Canteen Committee. He was appointed 21 Dec 43, and during the months of Jul, Aug and Sep the accused was IC of the canteen as Steward, and I have here the so-called cash book which records the daily sales. At the close of the canteen the man on duty would bring me the sales of the day, the cash, together with the sales slip, and this would be checked by me, recorded in the daily total coln, initialled by myself, and the amount of what had been recd from patients would be recorded in a special coln. The same amount is then recorded in the deposit books. I get this money about 2145 hrs each evening and make my deposit in Lloyds Banks, Basingstoke, about twice weekly. In the interval the money is kept in the safe.

Q. Is there any money left for change with the man IC?
A. Until the 1 Aug the sum of £8, and from 1 Aug on this amount was increased to £15. Prior to the Court of Inquiry the amount of £8 change was given back at the same time to the man who had brought the cash to me, but after the Court of Inquiry my attn was drawn to this rule, and since then the cash has been given by me to the man IC on the following morning.

Q. Would there be some nights when you could not be available to receive the money?
A. If I was going to be away overnight arrangements would be made for the Assistant IC to hold the money over for me until next day.

Q. Did you ever find any discrepancy between the cash and the Sales Slip
A. Oh, perhaps a minor error once in a while, but nothing that would amount to anything, perhaps 6d in the counting.

Q. Would you produce this book you mention to the Court as Exhibit 1?
A. Yes.

STEWARDS CASH BOOK OFFERED AND RECEIVED IN EVIDENCE AND MARKED EXHIBIT 1.

Q. Who made those entries in that book?
A. The daily sales entries in Exhibit 1 are made by me as well as the entries of the patients sales. I now hand to the Court the Minute Book of the Committee. The Minutes of the Committee Meeting are signed by me as Sec Treasurer.

MINUTE BOOK OFFERED AND RECEIVED IN EVIDENCE AND MARKED EXHIBIT 2.

Q. What does it say for 21 Dec 43?
A. In the minutes of the meeting held on 21 Dec 43 there is the following entry: "It was moved by Pte Sloane, seconded by Capt Johnston that in the event of Cpl Papineau being transferred, Pte Quirk be appointed by the committee as Canteen Steward and that his salary be 14/10/0 monthly. Carried" On 8 Jan at a meeting it was reported that Cpl Papineau was being transferred and that the accused was about to take full charge of the canteen.

Q. How long had he been working there before being appointed Canteen Steward?
A. Almost continuously before I took over. There was a short period when he wasn't there and worked in the Offrs Mess.

Q. Will you tell the Court who purchased the goods for the canteen?
A. The accused. He would phone his order to the NAAFI, and the following day the amount of the order would be phoned to me so that I could issue a cheque. Then the day after the accused would go to the NAAFI with the truck and bring back the goods and the receipt. Att to the receipt was an invoice of the goods and their prices and the totals of the 2 had to agree.

Q. Was it the accused who invariably picked up the cheque and the goods?
A. Except when on leave, yes.

Q. Were goods bought from any other firm or person or NAAFI?
A. Yes, on 3 occasions I've purchased from one firm in LONDON. The only other exception has been when the accused purchased from the GORDON NAAFI. The method was that he would come to me and that he had run short of certain articles which he could not secure from the Barton-Stacey NAAFI near Handover, and he would receive an amount in cash from me and proceed to NAAFI, return within 2-3 hrs with his receipt and change, if any, and then I would issue a cheque which the Colonel would sign. I always recd a temporary receipt from the accused for any money he took to GORDON. This occurred perhaps once a month.

Q. Was the accused on leave between 1 Jul and 17 Sep 44?
A. I cannot answer that question.

Q. Who would sign the invoices?
A. By the man who got the goods, the accused.

Q. You have the invoices for the months of Jul, Aug and Sep?
A. Yes.

Q. Would you show them to the Court, please?
A. Yes, here are the invoices for goods purchased for the month of Jul. There is contained in the same parcel the cash sales slips for the month of Jul 44 and receipts with relation to matters other than the purchase of goods and sale of same.

PARCEL AND RECEIPTS FOR THE MONTH OF JUL OFFERED AND RECD IN EVIDENCE AND MARKED EXHIBIT 3 BY THE COURT

Q. Was the accused the only one who signed on the invoices the receipt for goods in the month of Jul?
A. Not always. We had a Dvr IC who went with him sign on a couple of these I notice, but the practice was that he would sign the forms and most of them are signed by him. In the month of

Jul he was always there, and was the responsible person in respect to the receipt of these goods. Immediately he would arrive back in camp he would hand me the receipt and I then kept it.

Q. Did you get any goods from Aux Services free or otherwise?
A. No, except there had been times when I had purchased utility lighters from Aux Services and we sold them in the canteen.

Q. Did you ever authorize anyone else other than the accused to sign invoices?
A. No.

Q. Would you produce the invoices for goods purchased in the month of Aug together with the daily sales slips for the month of Aug?
A. Yes, the majority of them are signed by the accused and some by the dvrs, Cpls Brown and Everette.

PARCEL AND RECEIPTS FOR THE MONTH OF AUG OFFERED AND RECEIVED IN EVIDENCE AND MARKED EXHIBIT 4 BY THE COURT

Q. Would you produce the invoices for the month of Sep together with the daily sales slips?
A. Yes, the same remarks apply as for the month of Aug, except of course, up to the 28 Sep, at which date the accused was relieved of his duties.

PARCEL AND RECEIPTS FOR THE MONTH OF SEP OFFERED AND RECEIVED IN EVIDENCE AND MARKED EXHIBIT 5 BY THE COURT.

Q. Notice anything abnormal on the part of the accused in purchasing goods - was your suspicion ever aroused about anything - did anything queer happen?
A. I did query on one or two occasions the fact that the accused was able to purchase certain commodities at the BORDON NAAFI which were not obtainable at Barton Stacey NAAFI, canned beans for example, which I learned were on points, and the Barton-Stacey NAAFI were unable to give me such an item, but the accused was always able to purchase these from the BORDON NAAFI. Another occasion was on the large amount of cigs being purchased at the Bordon-Stacey NAAFI during the month of Jul and Aug. On or about 6 Sep I informed the accused that I had noticed that he had on hand at the end of Aug a large stock and that my ready cash was disappearing owing to the large orders that he was purchasing and that he would have to cut down as I needed the ready cash to pay for entertainments and such things. He informed me that he would cut down everything but cigs which he said were greatly in demand. I queeried the amount of cigs being purchased as the total was jumping very rapidly.

Q. In Aug did you have more patients here than in the spring as I note from Exhibit 1 that your sales which amount to about £700 per month in the spring ran up to well over a £1000 in Sep?
A. Yes, there were more patients here in Aug than in the spring.

Q. Did you ever think that the accused was purchasing in any one commodity more than you estimated the normal demand would be for that one commodity?
A. I began to query in the first week in Sep the amount of cigs being purchased and drew his attention to the fact that there were some 176,000 cigs in the month of Aug.

Q. What was the strength of this place at that time?
A. 1100 I would say, a maximum.

Q. What was the procedure when the goods were coming into the canteen?
A. They were unloaded at the entrance to the Stock Room and weed by the accused himself, and owing to the large quantity of them they were placed on the shelves at once. There are two keys to the Stock Room between 3 men, the Steward and Pte MacArthur. The accused slept there constantly. There were never any thefts or shortages reported from the Stock Room or canteen, except on 7

Sep the accused came to me and reported a shortage of £60 worth of cigs. He stated "I've pulled a bloomer yesterday and left £60 worth of cigs for which we have paid for in NAAFI". I reported this at once to the CO and on his instructions phoned the manager of NAAFI at Barton-Stacey and he informed me that the cigs were there and said he would appreciate it if we would instruct the accused to be more thorough in checking his goods. These cigs were brought in the following day.

Q. What is the price you pay to NAAFI for cigs?
A. The most popular of our cigs are 1/6 less 10% discount to which we are entitled, and we sell them at 1-6. There is a slight variation in the price of other brands.

Q. When the goods are purchased is there any record book kept of the purchases?
A. There wasn't at the time, merely the invoices.

Q. Was there any special inventory or stock taking made?
A. There was a regular stock inventory taken following the closing of the canteen on the last day of the month. This was invariably taken by myself, assisted by the Steward. After the stock taking sheets are prepared they are passed on to the bookkeeper who checks against the invoices less the sales already made. He also has before him the inventory for the end of the preceding month.

Q. Who signs the inventory sheets?
A. I and the accused sign the monthly stock taking sheets.

Q. What kind of goods are purchased?
A. The usual goods to be found in canteens. You will note a copy of the stock taking sheets which were taken on 30 Sep in Exhibit 5, and this will show the Court the diff kind of goods which are purchased and sold in the canteen.

Q. To your personal knowledge did you ever notice any goods the sale of which is slow in the canteen?
A. No, I haven't.

Q. Did you ever have any illustration of negligence on the part of the accused in doing his duties as Steward?
A. The illustration which I have already given is to my mind very definite evidence of negligence.

Q. Any others?
A. None that I saw directly. There had been things reported to me on diff occasions, but I cannot say these here.

CROSS-EXAMINED

Q. I understand that up until the end of Jul everything was in order. At the end of Jul you took your usual inventory and your subsequent checkup showed that everything was in good shape up until that time
A. The stock taking was correct a the end of each month, yes.

Q. There was no shortage up to the end of Jul in stock or money?
A. No.

Q. So that any difficulty that did occur did occur during the month of Aug or the first 11 days of Sep?
A. Yes.

Q. And the accused was working at this same canteen before you came there in Sep 42?
A. Yes, as an assistant, how long he was there before my time I'm not quite certain.

Q. He has nothing whatsoever to do with the meetings of the canteen?
A. That's right.

Q. And he doesn't know what goes on at these meetings?
A. He does if they affect the policy of the canteen.

Q. He keeps no books whatever?
A. No.

Q. There are three men working there?
A. Yes.

Q. And each one works an average of 10 nights a month and whoever is on at night goes to you with the sales slip and cash, and that sales slip is initialled by the party who actually brings this and not necessarily by the accused?
A. Yes.

Q. Then sometimes at the end of the month you have the accused in and he initials all the items irrespective of whether he brought the money and sales slips in or not?
A. That's right.

Q. With regard to this sale of cigs, Aug was the best month that the canteen had had altogether was it not?
A. Yes.

Q. Jul was perhaps the next?
A. Yes, probably, I would assume so.

Q. Did the number of cigs sold in the month of Jul amount to 88, 190?
A. That's correct.

Q. In the month of Aug they were 150,690, correct?
A. Yes.

Q. For the month of Sep the amount was something like 100,000?
A. Yes.

Q. Sometime in Jul or Aug the indent was increased by 1100?
A. Yes.

Q. With your approval?
A. Yes.

Q. Although that cash book is called the Steward's Cash Book he really never had it in his control did he?
A. No.

Q. And the ledger is kept by the accountant?
A. Yes.

Q. There was nothing purchased at the BOARDON MAAFI during Aug?
A. On 10 Aug there was I see by Exhibit 4. Also again on 22 and 29 Aug.

Q. With regard to these cigs left behind, the accused was quite agitated about that and offered to make up the money if you could not get the cigs?
A. Yes, he did.

Q. What kind of cigs were they?
A. K 4's.

Q. You are aware that the shortage has been called diff amounts at diff times by diff people?
A. Yes.

Q. Somebody called it at £90 then someone called it £80?
A. I think so.

Q. At one time there was found to be a surplus for Jul of £54?
A. This was caught by our accountant as his mistake and £44 was made up.

Q. You have a record for what each man turned in to you?
A. Yes. Pte Quirk in the month of Aug 44 out of the total sales of £1197/19/10, turned in to me £451/4/9, McArthur who was on eleven nights turned in £417/6/1, and Gauthier who was on ten nights, £349/4/0.

Q. With regard to the purchasing of beans that was carried on by Cpl Papineau in his time?
A. In his day we dealt with Bordon NAAFI and we got beans there, yes.

Q. Those signatures that occurrred on invoices of goods by people other than the accused were simply those of who would go along with him in the truck from the Steward's Stores which come under M Stores?
A. Yes.

Q. When this shortage was found you immediately took it up with the accused?
A. No, with the CO and the CO suggested that I get the assistance of 2 other offrs in the unit, and a special stock taking was taken.

Q. And he denied all knowledge of anything?
A. He was never accused of anything.

Q. You were present when the accused gave certain evidence on oath elsewhere that he had no knowledge of how this shortage occurred?
A. Yes.

Q. Towards the end of Aug was Pepsi-Cola sales falling off because you could not get pepsi-cola?
A. Yes.

Q. And that is rather a large item?
A. Yes it is.

QUESTIONS BY THE COURT:

Q. To what extent, if any, was the accused responsible for having the other 2 men at the canteen sell goods and making a correct accounting on the nights they were in charge?
A. The accused was in effect, the manager of the canteen. He rcvd a special salary, £4/10 per month originally, which was increased to £5/10, and it was explained to him by myself that the reason for this salary was because he had the full responsibility of the canteen. In my opinion he was in the same position as the manager of a store.

Q. How far away is the canteen from his bed?
A. He sleeps in it.

Q. Did he ever bring over the other men's takings at night?
A. Each of them always brought their own.

Q. How often is there an inventory of your goods made?
A. At the end of each month normally. There's a daily check now.

Q. I find that in Exhibits 3-4-5 that there are bills from such people as Uglows, Tabour and Hackwood Estates, what are these goods purchased for?
A. These are not purchased for sale in the canteen, they are paid for out of the canteen funds for extra messing for personnel of the unit.

Q. The accused has nothing to do with that at ALL?
A. No, it is something quite outside of this case altogether.

Q. Who takes the inventory at the end of the month?
A. I personally take the inventory.

Q. I notice by the minutes that the accused was originally appointed that his salary was $4/10 and if his services proved to be satisfactory he was to be raised?
A. Yes.

Q. I take it then that his services were entirely satisfactory?
A. Up until the end of Jul, that is correct, apart from the usual checking up that one has to do with almost anybody.

Q. I observe from what you told us that the accused in the month of Aug turned in $451 odd and that Gautheir turned in only $349, did you give any circumstances as to how that difference might be explained?
A. It was explained to me by the large number of cigs that were sold on the evening that the accused was on duty.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 93(B).

SECOND WITNESS

Capt W WOOD, Gen List, presently on strength RFB, CMH, having been duly sworn, states:

I have been an accountant in the Army ever since I joined, in '39. About the present case, there was a phone call on behalf of the OC of the unit asking us to come down here to make an audit. We duly visited the hosp and audited the books and records of the Canteen and made an inspection of the remainder of the premises, that is the messes, and my report on the Canteen was to the President of the RFB d/3 Oct 44. I have here the report covering the period from 1 Jul 44 to 11 Sep 44, and financial statement of the Canteen for that period with supporting schedules, which I offer in evidence.

REPORT AND FINANCIAL STATEMENT FROM PERIOD 1 JUL 44 to 11 SEP 44 OFFERED AND RECEIVED IN EVIDENCE AND MARKED EXHIBIT 6 BY THE COURT

Q. Are the statements made in your report, and are the facts and figures in Exhibit 6, true and correct to the best of your knowledge?
A. Yes, they are, Sir.

Q. What was the nature of the shortage?
A. According to the records it was a shortage of cash or stock.

Q. Will you please read Exhibit 6?
A. Yes. (Witness reads Exhibit 6)

CROSS-EXAMINED

Q. Why, particularly, was that period from 1 Jul to 11 Sep, chosen?
A. We had to arrive at a date on which it occurred. Our first intimation was that it was in the month of Aug and then after checking Aug we checked Jul and we did in fact, find an overage in Jul. Previous months were in good condition and did not require an audit.

Q. How big was that overage for the month of Jul?
A. The overage in accounting was $14/9/5.

Q. The loss that is claimed now is $54/14/6, why was the figure of 80 changed to 50?
A. The figure was not changed. I have another report after the Court

of Inquiry which shows an overage of £29/17/1, which, if subtracted from the previous shortage of £82/11/7 gives the figure of £52/14/6 as being the net shortage for the period 1 Jul to 31 Oct. Pursuant to a request from a Court of Inquiry in relation to this matter I prepared a further statement for the period 12 Sep 44 to 31 Oct 44. This is the statement together with my report thereon, dated 17 Nov 44, which I will now read to the Court and tender as an exhibit. (Witness reads statement)

STATEMENT, TOGETHER WITH REPORT THEREON DATED 17 NOV 44, OFFERED AND RECEIVED IN EVIDENCE AND MARKED EXHIBIT 7 BY THE COURT.

Q. Are the statements made in this report, and are the facts and figures in Exhibit 7, true and correct to the best of your knowledge?
A. Yes.

Q. Do you know whether the Regtl Accountant found an overage of £54 during Jul?
A. Yes, that was reported to me.

Q. There was one previous month in the same year for which there was a shortage rather than an overage?
A. I believe there was.

Q. If you balanced all the overages during the period the accused was Steward your total loss was something like 4s?
A. I haven't checked into that.

Q. Did you establish that up until the end of Jul there was no serious shortage of either goods or money?
A. Yes.

Q. So that if anything went wrong it must have been in the month of Aug or Sep?
A. In the month of Aug everything was bad, very bad.

QUESTIONS BY THE COURT:

Q. Would there be any possibility that this £29 odd might now appear on account of a faulty inventory taken for the period ending 11 Sep?
A. Definitely not, because we took that inventory ourselves, and I haven't the faintest idea how this extra £29 got into the stock or the money. It came in either as stock and/or cash. I have examined the overages and shortages in the monthly accountability statements for the period from 1 Feb to 31 Oct 44 and find that the net shortage for the period amounts to £47/8/3, and I might add that the shortage in Aug was £94/17/5, and there was also a shortage of £3/8/0 in the month of May. All the other months showed overages and by substracting the two the above result is arrived at.

Q. This £29 overage that you found in Oct, can you tell us what proportion of that applies to the period after 23 Sep?
A. Yes, the overage from the period 12 to 30 Sep was £15/11/7, and the overage for the month of Oct was £14/5/6. At this time I would like to point out that there are some small differences between the figures as shown for monthly sales on the statements prepared by the Unit and the sales as shown on both of my reports. These differences were occasioned by losses on containers being charged directly against the total sales instead of being shown as an operating expense of the Canteen which procedure is in accordance with sound accounting principles. The loss as shown on the unit's copy of the statement was £91/8/11 to which should be added £3/8/6 for breakages in containers which will then show a total of £94/17/5, as shown on Exhibit 6.

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

THIRD WITNESS

SGT MARCHANT, L., RFB, CMH, having been duly sworn, states:

I am a clerk with the RFB, and during the months of Jul and Aug 44 I had this same appointment. I was here at this hosp with Capt WOOD of the RFB on 11 Sep 44, and assisted him in making up Exhibit 6, and the figures in it are true to the best of my knowledge and belief. From the period 12 Jul to 1 Sep the shortage was £82/11/7. I was also here in Nov with Capt Wood when a further statement, Exhibit 7, was prepared, and that showed an overage of £29/17/1, which leaves a net shortage of £52/14/6.

NO CROSS-EXAMINATION

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

FOURTH WITNESS

B.57159 Pte BOYES, CM, RCAMC, on strength Basingstoke Neuro and Plastic Surg Hosp, having been duly sworn, states:

I recognize the accused. During Jul, Aug and Sep 44 I was Regtl Accountant and had been since 10 Aug 43. I did the accounting of all the unit's accounts and made a financial statement for the canteen. During the month of Sep for Aug while doing the Profit and Loss Statement for Aug I noticed a profit was 4.4 when it should ordinarily be to 12 to 14%. Right away I knew there was something wrong with it. I completed the statement and then I did the Accountability sheet and that showed it up. I found an apparent shortage of £91 odd.

Q. What was the nature of the shortage?
A. It was either stock or cash or both.

Q. Do you have any books or papers from the canteen?
A. Yes, and I can produce them all. I now produce a true copy of the financial statement of the canteen for the month of Aug, the original being on file. I prepared this one I now produce myself and it is a true copy and the figures in it are true and correct.

FINANCIAL STATEMENT FOR THE MONTH OF AUG 44 OFFERED AND RECEIVED IN EVIDENCE AND MARKED EXHIBIT 8 BY THE COURT

Q. Are you a chartered accountant?
A. No, but I have had 20 yrs experience in accounting in civil life, being an accountant for an oil company previous to enlisting. This, Exhibit 8, shows a surplus in the Accountability statement of £91/8/11.

Q. Do you know the usual procedure in purchasing goods for the canteen?
A. The Steward went to NAAFI to purchase the goods but before getting them he brought a cheque signed by Capt Hollingworth for it.

Q. Did the accused borrow money from you during the month of Jul?
A. No, but he asked to borrow $100.00.

CROSS-EXAMINED

Q. What date was this loan asked of you?
A. Approx 3-4 Jul, Sir.

Q. Did you prepare a statement at sometime or other showing the overages from Jan of this year?
A. Yes, and it showed a shortage of £45 odd.

Q. That is if you correct your figure of £54 overage for Jul?
A. Yes.

Q. You were satisfied that that was an error of £54 overage for Jul?
A. Yes.

Q. Can you tell us the total sales for Jul?
A. Yes, I see by examining Exhibit 1 that the figure is £1034/6/0.

Q. And for Aug?
A. £1197/19/10.

Q. You kept the stock book yourself, the ledger?
A. Yes, and the accused had nothing to do with it.

Q. And you and Capt Hollingworth get together occasionally and he hands over to you the invoices and sales?
A. Yes.

Q. Do you have much to do with the accused?
A. No.

Q. When did you first come to this unit?
A. 10 Aug 45.

Q. Did the Regtl Accounts Board suggest at one time that you change your estimate?
A. Yes, but I said that in view of the splendid record the canteen had I did not think it advisable.

Q. This loan the accused asked you for, he was going to give it back to you in a week when he got it from Canada?
A. Yes.

QUESTIONS BY THE COURT:

Q. When the accused asked you for a loan, had there been any shortage in the canteen at that time?
A. No.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(3).

FIFTH WITNESS

B.63803 Pte McARTHUR, CF, RCAMC, on strength Basingstoke Neuro & Plastic Surg Hosp, having been duly sworn, states:

I'm employed as Asst Steward in the Unit Canteen here at the hosp and I know and recognize the accused, Pte Quirk. I have been employed with him since a year ago this time in the same canteen and he was IC. He purchased the goods, the procedure being that they were purchased from NAAFI. He went there and brought them back. I never went with him. When the goods were brought in the canteen no check was made of them. There were 3 of us in the canteen. One day in three one man was on duty from 8 to 11.30 at night. His next day would be at 4, and his next day would be at noon. We were all there always in the morning. We took it for granted that the accused was the man who told us what to and accordingly we did it.

Q. During the months of Jul, Aug and the beginning of Sep until the 11th Sep, did you ever take anything at all belonging to the canteen for which you did not pay the list price for?
A. No, never.

Q. Did the accused give something to you at any time during this period?
A. No.

CROSS-EXAMINED

Q. The accused would buy from time to time things for himself from the canteen?
A. Yes.

Q. And what was his attitude?
A. He'd pay for it himself.

Q. Do you know of any occasions when he gave anything to people who were working there?
A. I know we've had a few patients at times cleaning windows and they were awarded a pepsi-colar.

Q. Did he pay for that as well?
A. Not that I know of.

Q. Sometimes when you took the money to Capt Hollingworth he wasn't in?
A. No, so we'd leave it in a drawer in a cupboard in his bedroom.

Q. Was the amount that you were taking over there checked by anyone else before it was taken over?
A. No, a cash slip was made out.

Q. Did you get any receipt for the money you took over?
A. No.

Q. Wasn't there some arrangements whereby Wards 17 and 18 of the hosp would send over and make purchases for the ward, and have you known of such a sale to be handled and handled that type of sale yourself?
A. Yes, from 300 to 400 to 450 cigs.

Q. You knew that around Jul or Aug the indent was increased?
A. I knew there were more cigs coming in.

Q. As soon as goods had been brought over from the NAAFI by the accused the invoice was taken immediately to Capt Hollingworth?
A. Yes.

Q. It would be quite possible for any one of the three of you to withhold 3 or 4 or 5 pounds a night that you were taking over to Capt Hollingworth?
A. I don't think that high amount would be possible.

Q. But he'd have nothing to stop that?
A. No.

Q. It would be quite difficult to take any stock out of there without help?
A. Stock couldn't be taken out of there without whoever was there not knowing it.

Q. All three of you had an equal chance?
A. Yes.

QUESTIONS BY THE COURT:

Q. Do you know how this shortage of 452 odd occurred?
A. No.

Q. Did you have anything to do with it?
A. No.

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

SIXTH WITNESS

B.102706 Pte GAUTHIER, CF, RCAMC, on strength Basingstoke Neuro & Plastic Surg Hosp RCAMC, having been duly sworn, states:

I recognize and know the accused, Pte Quirk. In Jul of this year on a Sat I started to work in the canteen and in the months of Aug and Sep I was still working in the canteen. The accused was IC of the canteen and purchased goods at the NAAFI, and I never went with him. He went alone. When the goods came back they were taken from the truck and put in the canteen, no check being made on them. When I started to work there I took instructions from the accused, wiping tables and the counter, and then a month or so later I served at the counter.

Q. Can you explain the shortage at the canteen?
A. No

Q. Did you have anything to do with it yourself?
A. No.

CROSS-EXAMINED

Q. The accused was very careful to pay for anything he bought himself?
A. Yes.

Q. He paid for anything he bought for anyone else?
A. Yes.

Q. All 3 of you men about 10 nights a month collected the money for the Padre and gave it to him?
A. Yes.

Q. On those occasions would it be quite possible to put aside 4 or 5 pounds?
A. Not quite that much, it would depend on the day.

Q. Aug was a big month?
A. There were more patients here in Aug than there are now.

Q. You say he took no one with him when he went to purchase goods at the NAAFI?
A. No one from the canteen, Sir, I don't know what went on when he got to the NAAFI.

RE-EXAMINED

Q. Did you ever take money from the cash from the months Jul to Oct and put it in your pocket?
A. No.

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

THE PROSECUTION IS CLOSED

SUBMISSION BY THE DEF OFFR

Sir, I submit that no case has been made out by the Prosecution which requires to be answered. The charge is essentially the charge of criminal negligence, and the important words of the charge are "so negligently performed his duties as to be unable to account for cash and/or stock to the value of £52/14/6". I would point out at the beginning that we are not told, and nobody knows, whether it is cash or whether it is stock that is missing.

With regard to the charge under Sec 40, the former foothote with regard to neglect was to the effect that the neglect must be wilful and culpable and not merely the result of neglect, forgetfulness, error in judgment or inadvertance. By an amendment made in '42 neglect has been given a further definition, the effect of which I submit is that it depends on whether the accused is blameworthy under all the circumstances. I submit in this connection that the term neglect covers so many fields that what is meant by this amendment is to cover cases of negligence which would be negligence at civil law, that is to say, negligently operating a vehicle, or the negligent looking after of explosives or dangerous substances, and that in dealing with a case of this kind where the charge is essentially one of criminal negligence that the older and higher standard of wilfulness or culpability should be applied. This case is entirely distinct from one of such negligence as might be involved in driving a vehicle. The effect of a conviction here for negligence in accounting for goods and money will be to leave the accused with a criminal record if found guilty which I submit would prevent him for the rest of his life from obtaining a bond for future employment or from having any credit given to his evidence in any future proceedings, and I submit again that the Court should apply the highest standard of proof of wilfulness and culpability in this case. We have it that the accused was doing a good job for approx a year and no shortage occurred up until the end of Jul and that he was in no sense a manager of this canteen. The wording of para 45 in Rules for the Management of Messes and Canteens makes it clear that he is in no way to be regarded as a manager of the canteen and I submit that

that simply follows out the evidence we have here which shows that he did not keep any books, and took no part in the meetings, he was only IC of the monies to the same extent as the other 2 assistants and that they all had the equal opportunity for robbing the canteen as far as money went at least and we are left absolutely in the dark as to whether it was goods or money that accounts for the shortage and I submit that the Court could not possibly, if the case were to rest now, find the accused guilty, and we already have it that he did give evidence on oath denying [redacted] Court would simply be wasting their time in hearing further evidence.

REPLY TO DEF OFFR'S SUBMISSION BY THE PROSECUTOR

May it please the Court, in reply to the Def Offr's submission I would like to read Chap 6 on Page 73 M/L. (PROSECUTOR QUOTES THIS CHAPTER). It is absolutely impossible for the witnesses to prove whether it was in cash or in stock that there was a shortage, but with the documentary evidence given before the Court it is quite true that a shortage exists and that shortage is £52/14/6. As long as the Prosecution has established that fact the burden of the proof now shifts on the shoulders of the Defence and it is the duty of the Def Offr to prove that there is no shortage.

Secondly, the duties of a steward are clearly explained in R of M and C 45 (PROSECUTOR QUOTES THIS PARA FROM R OF M AND C). The accused had to account for all that he received, including the shortage. This has not been done and for those two reasons I think that even if there were irregularities of the Committee the principle of the responsibility lies and rests on the shoulders of the accused, and I think he should be called upon to explain about the shortage of £52/14/6.

THE COURT IS CLOSED TO CONSIDER THE SUBMISSION

THE COURT IS REOPENED AND THE PRESIDENT ANNOUNCES THAT THE SUBMISSION BY THE DEF OFFR HAS BEEN DISALLOWED.

- D E F E N C E -

FIRST WITNESS

The accused, D.77363 Pte QUINK, F, RCAMC, Basingstoke Neuro and Plastic Surg Hosp, having been duly sworn, states:

Sir, before I cam o/s I worked in the Western Canada Flour Mills from '26 to '40 and I was with them for all these 14 years, finishing up as a miller and checker, and my job with them is guaranteed when I get back. Before I came o/s I had no experience whatever in keeping a store or canteen. I arrived o/s in Sep 40, and came here to this unit in Jun 41, first starting to work around Sep 41 and have been in the canteen ever since, with the exception of when I was Mess Steward in the Officer's Mess and while I was in hosp. I became a steward in Dec 43 and prior to becoming steward there were 2 other men in the canteen, but when I went in there first for a greater portion of the time it was Cpl Papineau. When we were there together the system was pretty much the same as I have operated since. When he was there Capt Boulden was Sec Treasurer and in those days he would make it a practice to come over in the morning, take the money, count what was in the box and put back the change that was to be left for that day's sales. He left just before Capt Hollingworth took over.

Q. Can you give the Court any explanation for this loss of goods or money which occurred?
A. No, I can't understand it at all, Sir, not to such an extent as £58 odd. It is a mystery to me. I can understand at the end of a month a shortage of 10s or so, but not such an amount as £58 odd.

Q. Please continue?
A. I would take the stuff from the NAAFI, Sir, into the truck - or rather, I would check it into the truck, and I can see no way of how anything could have become lost even.

Q. How about this £60 of cigs?
A. On that particular day there were 2 boxes and they were identical - one was chocolate bars and the other K 4's cigs. I was almost sure we put them both on, but I came back and put all the things in the room and then I brought the invoices over to Capt Hollingworth to see and that was my evening off and I went downtown. Next morning when I opened the chocolate bar box it was not the cigs and I reported it right away. I tried to get the switchboard to put me through, but Capt Hollingworth beat me by getting his call through on the corridor phone. However, I found out later that the cigs were at the NAAFI alright. It was too late that morning for the truck to pick them up as the ration truck had left.

Q. If you bought anything yourself in the NAAFI?
A. I would pay for it, Sir.

Q. Ever buy anything for others?
A. For a few patients who would be sent down to give us a handout in the morning - I would pay for this as well.

Q. Any idea of how money was being turned in by the other 2 chaps who were working there as well?
A. No.

Q. Did you check up at all?
A. No.

Q. Did you compare?
A. When Papineau was there he kept a small book and marked down the date and the month and amount what he took in. I tried to keep a book like this, but McArthur complained to Capt Hollingworth that I was trying to keep a record and Capt Hollingworth told me that records were being kept and it wasn't necessary for me to keep a record.

Q. Did Capt Hollingworth recommend you for an increase?

A. Yes, I was told that my pay was to be increased from £1 to £5 a month.

Q. When did Gauthier start to work there?
A. In Jul, Sir, I could not tell you the exact date now.

Q. What about the increased cigarette sale?
A. Yes, on an indent to the NAAFI, cigs like every other commodity are only allowed so much per man. August was exceptionally heavy because we had some English lads here and in Aug they all started on leave. In this canteen of ours cigs rose all the time up to a point where in Jul I had to increase it more than we ever had before in the history of the canteen. NAAFI asked why did I not take my full allowance because if there was weeks when I would run short, all the others that drew there, if they drew their full quota it is only natural they would get the preference if I did not draw what I was entitled to, when I had the opportunity.

Q. What quantity of cigs would be sold to people going on leave?
A. There was no restriction on cigs, I've sold as many as 400 to a man going on 9 days leave.

Q. Did you yourself take any money or goods without paying for them?
A. No, Sir, about this £60 worth of cigs, I told Capt Hollingsworth that I'd pay for the cigs if they were not returned. I had £20 in my paybook at the time, and my lady friend down town here would have fixed me up with the remainder. I intend to marry this woman when my divorce comes through. I have a letter here signed by Capt Loringer of Legal Aid which tells me that at one time my divorce would cost me $900, but that I could now get it for $500. I sent money home towards this dovorce, $666, over a period of approx 14 months and part of it was in the form of a bond for $50.

Q. For how many months have you been drawing £5/10 in addition to your ordinary pay?
A. Since Apr, Sir.

Q. Then how many months at £4/10?
A. Three.

Q. How many months were you at £2/10?
A. Almost 2 years.

Q. For how long a period of time were you sending this money?
A. 14 months.

Q. How much money did your lady friend here advance for you to send?
A. £90, Sir.

Q. What about further advances by her for local purposes here?
A. If we went out together in the evening to a show or anything I might have been short or something.

Q. Are you spending or saving your money?
A. Spending it except for what amounts I send home, Sir.

Q. When was the last time you sent money home?
A. Jul and the first part of Aug, Sir.

Q. How much?
A. Five or ten pounds.

Q. What was the method you were using?
A. I was getting various soldiers to send money to my Mother and I would pay them in English currency here.

Q. You sent home about £30 put up by you then, deducting the other?
A. Yes.

Q. Leaving you how much to spend?
A. I've not drawn any ordinary pay since last Apr, Sir.

Q. Where have you been getting your spending money then?
A. Out of my canteen pay, Sir, and then Mrs Strachan advanced me five to 10 bob from time to time. She wanted me to save the money in my paybook and to spend hers.

CROSS-EXAMINED

Q. When you took charge of the canteen did you know you were responsible for the goods?
A. For the goods I brought in, Sir, yes.

Q. Isn't it right that when you were going to the NAAFI, in coming back you stopped at a few places?
A. We stopped at once place, Sir, the Blue Hut Cafe, on the rd from Barton Stn, to get a cup of tea and a bun, and I left the truck outside the door with the back of it facing the window so that I could see everything that was going on.

Q. How do you manage to know how much stuff you have at any one time in the canteen?
A. When the commodities come in they are put in a corner, and as you draw from them and put it on the shelf you automatically see what is left, Sir.

Q. Were you IC of the canteen?
A. Yes, as far as ordering goes, Sir.

Q. What was the salary of the others?
A. £2/10 each. When I first went there all I got there was 10 bob a week.

Q. What were you getting £5/10 a week then for?
A. For making lists of commodities brought in, going and getting them, and bringing them in, Sir.

Q. Whenever you were in trouble of any kind did you ever ask Capt Hollingworth?
A. There might have been a few minor things that I went to see him about, Sir.

Q. About Gauthier?
A. I followed out orders about him, Sir.

Q. Did you at any time sell or keep at the canteen any kind of goods that were not permitted?
A. I didn't introduce the sale of any new articles in the canteen, Sir.

Q. Is it not right that you sold stockings to nurses?
A. No, Sir, I did not.

Q. You swear to that?
A. Yes, I swear to that.

Q. How many passes did you have during the month of Jul-Aug?
A. Passes were a rare commodity, Sir, I might have had one sleeping out pass in 9 months. I got afternoons off, but I haven't had leave since War.

QUESTIONS BY THE COURT:

Q. Were you told that you were responsible for all monies and stock?
A. I might have surmised it, Sir, but I never knew it, or was told so. That manual on the management of messes and canteens only came out at the Court of Inquiry. Before that nobody knew of its existence even.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(3).

SECOND WITNESS

Mrs E STRACHAN, BASINGSTOKE, having been duly sworn, states:

At the moment I am living in BASINGSTOKE, but I am working in BRAMLEY for the Great Western Railway Company. I advanced £90 to the accused, Pte Quirk, to be sent home to Canada by him. Between 18 months to a year ago was the first lot and the last money I advanced to Canada was on 15 Apr 44, £22. I am advancing this money for the accused's divorce with a view to getting married subsequently. Other than money sent to Canada I have given him pocket money of a £ or 30 shillings when he wants it, when we go out in the evening to see a show or anything.

Q. Do you know anything about the possibility that he might need £60 to make up for cigs a short time ago?
A. I know nothing at all about it.

Q. Did he arrange with you at any time to advance him any sum to the amount of £60?
A. No.

Q. When did you come to live in BASINGSTOKE?
A. I have been here approx 4 months.

Q. Did you or have you discussed your financial affairs thoroughly with the accused?
A. No. He would save his pay, and I provided all the spending money as I wanted him to get his divorce.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 63(3).

THIRD WITNESS

Capt CL PALL, RCAMC, Basingstoke Neuro and Plastic Surg Hosp, RCAMC, having been duly sworn, states:

Q. After this shortage of goods or money occurred for the month of Aug, did you have occasion to check at the NAAFI to find out how thoroughly goods were checked?
A. Yes, I went to the NAAFI, and saw the manager there. They have a wicket arrangement sort of about the length of the tables the President and Members of this Court sit at, and the orders for each unit are all piled up on this counter, then our steward would come in and pick up his stuff and check it off as he took it out to the truck. The manager there told me that our people were always the first in, and that there would usually be two men at least from the Steward's Stores, and probably the driver.

Q. Was there any chance of large quantities being lost?
A. They said no. On one occasion 2 large K4's cigs were left behind but they were laid aside and later were picked up by the right party.

Q. You have been here how long Capt Pall?
A. Three years.

Q. How is the accused's service considered?
A. Very satisfactory. I checked into the books myself after this shortage was found and I was never able to determine what had gone wrong. I studied the books and financial statements each month and from everything that I could see there appeared to be

a definite shortage, but there have been several changes in the figures since.

NO CROSS-EXAMINATION

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

THE DEFENCE IS CLOSED

THE PROSECUTOR ASKED TO RECALL CAPT HOLLINGWORTH TO REBUT CERTAIN EVIDENCE CONTAINED IN STATEMENTS MADE BY THE ACCUSED IN HIS EVIDENCE, WHICH HE THE PROSECUTOR STATED HE DID NOT ANTICIPATE THE ACCUSED WOULD MAKE.

GRANTED

Capt DG HOLLINGWORTH, first witness for the Prosecution, being recalled, on his former oath, states:

Q. Will you tell the Court what specific instructions you gave the accused when he took charge of the canteen Capt Hollingworth?
A. Yes. My instructions to him were most specific and definite. He was informed that he had full responsibility for the canteen, its operation, and for stock and cash, and on numerous occasions when complaints were made to me regarding the policy of the canteen steward I stated both to the complainants and the accused that he IC of the canteen.

CROSS-EXAMINED

Q. Do you mean to say that he was responsible for the cash of that canteen?
A. I do.

Q. Although he was only taking in 1/3 of it at night to you?
A. I do not mean the cash at the end of each day.

Q. Then you surely did not mean to say that he was responsible for ALL of the cash?
A. Certainly, for the variation at the end of each month.

[redacted]

RE-EXAMINED

Q. The accused said something to the effect that he had started to keep something of an account but that you stopped him?
A. This is absolutely untrue.

QUESTIONS BY THE DEF OFFR (THROUGH THE COURT)

Q. There was some little friction between McArthur and the accused that you know of, and McArthur perhaps as you were aware, was not particularly friendly with the accused?
A. That is correct.

Q. Well then can't you well imagine that McArthur would not cooperate with the accused in telling him what he had taken you in money?
A. That's possible.

Q. You have no recollection of being told anything about this little account that the accused wanted to keep?
A. No.

Q. Did you know that the previous chap there had kept an account?
A. I didn't know that he had kept a cash book as came out in evidence today, other than what was arranged among themselves.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(2).

STATEMENT BY THE DEFENDING OFFR ON THE FINDING

Sir, I repeat all that I said on my submission and wish to add that there is no evidence here on which the Court can convict this man beyond a reasonable doubt of being guilty of criminal negligence. Apart from one or two little discrepancies in the evidence we have here that the accused is the sort of man who stays on one job and does a sufficiently good job there to the best of his ability so that his employers want to keep him. In civil life he worked for 14 years in a mill and ended up as a shipper and is guaranteed his job when he returns. Since coming o/s he has been at this same unit for 3-4 yrs and right in the same canteen for approx 3 yrs and the evidence is to the effect that for these 3 yrs everything as gone smoothly until suddenly something goes wrong in the month of August and he can't account for what has gone wrong, neither can anyone else, and for some strange reason the accountants spread the loss into 3 months rather than finding it or confining it to the month in which it obviously occurred. The rules of the canteen are clear in that this private soldier is not a manager of the canteen and if he was told that he is responsible for all the cash I submit that on the evidence as we have had it that this is a ridiculous responsibility to put on his shoulders in view of the system which he did not originate and which he simply carried on with and which it was not for him to change. There were 2 other men who had an equal opportunity to rob this canteen as far as money went and it is impossible for the Court I submit to decide which of the three did it. Then there is the loose manner in which the money was handled after it left the canteen, there was no receipt given, there was no record kept by the men who handed it in, and I submit that it is quite impossible for the Court to decide as between these parties who should be responsible for this loss. It may be still some error in the accounting and nothing else, although

that seems unlikely now.

The purchases were made by the accused and only to that extent did his responsibility seem to be greater than that of the other two workmen there and the evidence of Capt Tall is quite clear and of the accused himself that there could not possibly have been a loss of a large quantity of goods from the time of the purchase until they were handled at the canteen, so that the double check of the goods at the NAAFI and at the canteen seemed to the accused to be unnecessary and he immediately took the invoices over to Capt Hollingworth who could in turn have checked the goods if he so desired and he was the party who was assuming the monthly responsibility for checking the goods so that it seems clear on the evidence that either the loss is not money in which case there was an equal opportunity for three parties to create the shortage or it was in goods in which case again it was between three parties but with a greater possibility perhaps on the part of the accused in as much as he slept in the building, but there has been no suggestion in the evidence that any goods were made away with, and surely this would have been possible if such a large quantity of goods had been stolen directly. It is intimated that cigarettes might have been the item particularly involved because there was a sale of 150,000 for Aug as against 96,000 for Jul, but the accused has explained that in his evidence. We have had also about the sale of pepsi-cola and this has also been explained in the evidence. Then we have this interesting item about turned in in Aug by the accused and that as you know has been well explained also. In conclusion, there is nothing in the evidence to point to the accused any more than to these other two men who worked in the canteen also.

STATEMENT BY THE PROSECUTOR ON THE FINDING

I will not repeat again the remarks I made in reply to the submission of the Def Offr before the accused was asked for his Defence, but the case is very simple under Sec 40, and the particulars to be proved I think, have been proven. The books of the canteen, Exhibit 2, have been brought before the Court, and it is quite clear that his appointment was regular. As to the negligence to the value of £22 odd, I am

yes because first of all the shortage has been established, and witnesses for the Prosecution have been expert in that matter, they spent many days here, made a careful checkup, and both concluded that the shortage existed and that the shortage is now £53/14/8. About negligence on the part of the accused - as I explained before the burden of the proof belongs to the Prosecution but in certain cases it shifts from the Prosecution to the Defence when such as this one, the shortage has been established.

The shortage has been established and I think that the Defence has failed to prove that there was no shortage at all. More than that I will submit to the Court that in performing his duties the accused was negligent. He was told by Capt Hollingworth even if he denies it now, that he was fully responsible for the cash and the stock that was in the canteen at the end of each month. From Jan up to Aug he did his job very well, but in Aug he made mistakes, maybe he had made mistakes before, but was lucky enough to get away with them, but this time he was caught. The first mistake he made was in not checking the stock when it was coming into his canteen and if a man does not check what is coming in he cannot say what he has there from one day to another, and you cannot blame the Prosecution not to be able to establish whether it is cash or stock that makes the shortage. The accused should have taken steps to know what was in his canteen at all times, but no, he did not do that, he didn't even care about that, and although he may not be entirely responsible, I do think because he was paid more than the others he should take more responsibility and this was his responsibility. For all these reasons I think the Prosecution has proved the charge as laid.

AT THIS POINT, AND AT THE CONCLUSION OF THE PROSECUTOR'S STATEMENT ON THE FINDING, THE DEF OFFR SAID HE WISHED TO POINT OUT TO THE COURT THAT ALTHOUGH THE BURDEN OF PROOF SHIFTS THE ONUS OF PROVING THE ACCUSED GUILTY ALWAYS RESTS WITH THE PROSECUTION.

THE COURT IS CLOSED TO CONSIDER THE FINDING

THE COURT IS REOPENED

PLEA IN MITIGATION
(BY DEF OFFR)

Sir, I'm not prepared to say anything in mitigation because I did not expect that the accused would be found guilty - to say the least I'm shocked. However, I do take it that you have treated this as a civil affair to end up on the right side. The accused as we all know may have been robbed by any one of his clerks and the Court cannot possibly distinguish between any three of them there, and therefore I ask the Court to consider as light a punishment as possible for the accused.

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18 December 1944

Received from the Court exhibits No 1 up to and including 8, to be kept by Capt Paul, R.C.A.M.C. adm Offr 1 B.N.P.S.H subject to further directions

Maurice Rousseau Capt.

1M7

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D 77363	Private	Francis QUIRK	RCAMC (B.M.H. P.D. Hosp.)

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.—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 annexed to the proceedings.

† See para. 617, K.R., 1940.

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

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

	* Within last 12 months.	*Since Enlistment.
For	nil times	nil times.
For	times	times.
For	times	times.
For	times	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.

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

~~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 53 of the Army Act, are set out in the schedule annexed to this statement.~~

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

~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and 13 days in military custody, making a total of 13 days, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 35 years 5 months

6. The date of his ~~attestation~~ commission specified in his ~~attestation paper~~ record of service is 27 June 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is n/a

8. The accused is entitled to deferred pay or gratuity in respect of 4 years service.

9. The accused is entitled to reckon n/a service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). C. V. S. M.

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

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

(*10540) Wt.20368/1002 75,000 12/40 A.& E.W.Ltd. Gp.698

EXB

No. D. 77363 Name QUIRK, F. | Sqn., Battery, or Company | Corps R.C.A.M.C. | Date of enlistment 27 Jun 40 | G.C. Badges one | Service or Proficiency Pay n/s | MFM 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet n/s | No. and date of last drunk n/s | Period not reckoning towards freedom from extra fine n/s | Sheet No. 1 | Signature O.C. Company, etc. J.H. Murchison Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with same	By whom awarded	Remarks
				--- Nil ---					

CERTIFIED TRUE COPY

(G.L. PAUL) Captain,
Officer having charge of
regimental documents.

(P.T.O.)

SUMMARY of EVIDENCE

Summary of Evidence in the case of

D 77363 Private Francis QUIRK,

H.C.A.M.C., presently on the strength of Basingstoke Neurological and Plastic Surgery Hospital, a soldier of the Canadian Army Overseas.

FIRST WITNESS
For the Prosecution

Captain W. D. G. Hollingworth, Canadian Chaplain Services, presently on the strength of Basingstoke Neurological and Plastic Surgery Hospital, having been duly sworn, deposes as follows:

I am a Chaplain, presently on the strength of Basingstoke Neurological and Plastic Surgery Hospital.

On 1 Sep 42 I was appointed secretary-treasurer of the Mens' Canteen Committee, by the then Commanding Officer, Lt.-Col. R.C. Montgomery, and I have held this appointment to date. I present herewith the Minutes of the meeting of that date, showing my appointment.

(This extract, duly certified as correct, is attached as Appendix "A".)

I did not seek the appointment, and on several occasions have asked to be relieved of it, because of the pressure of my duties as Chaplain.

Q1: Will you please explain, in detail, the administrative organization of the Canteen, with particular reference to the duties laid down, and the responsibilities of each individual?

A1: There is a committee, three of which are appointed by the Commanding Officer, and are officers, and three other ranks elected by the men. With the exception of the secretary-treasurer, these are changed every six months. This committee meets once monthly, to receive the financial statements, to order bills paid, and to decide matters of policy. The secretary-treasurer issues all cheques, which are countersigned by the Commanding Officer, and because of the fact that he has been in office for over two years, has dealt with matters of administration, leave, etc., on the part of the canteen staff. The canteen is operated by the canteen steward, and one or two assistants, according to the number of patients in the hospital. The canteen steward, during the period I have held office, has held himself responsible for the purchase of stock and the maintenance of the canteen. On a few occasions I have purchased a small amount of stock from a wholesale drug firm in London. The monthly inventory was taken in every case by myself, with the assistance of the canteen steward. The books of account and the financial statements are prepared by the unit accountant, Pte. Boyes, with the exception of the daily register. All the cash from daily sales is brought to me at the close of the day's business, and I deposit this in the bank.

FIRST WITNESS (Continued)
For the Prosecution

Q2: Is this organization in accordance with the Rules for the Management of Messes and Canteens?
A2: Yes.

Q3: Was the accused appointed by the Commanding Officer?
A3: Yes, on the recommendation of the canteen committee. I present the minutes of the meeting of the canteen committee of 21 Dec 43, showing his appointment.

(This extract, duly certified as correct, is attached as Appendix "B".)

Q4: Have you, as officer directly in charge of the operation of the canteen, ever read and explained paragraph 45 of the Rules for the Management of Messes and Canteens to the accused?
A4: No. I have never read it to him, but I have given him the information.

Q5: So that he must have known that he was personally accountable for all the stock and cash?
A5: Yes. It was further explained to him that it was because of this responsibility that his salary was set at a higher figure than the other members of the canteen staff.

The accused declines to cross-examine the first witness for the prosecution.

W.D.C. Hollingworth Capt
(W D C Hollingworth)

SECOND WITNESS
For the Prosecution

B 57159 Pte Boyes, C.M., R.C.A.M.C., presently on the strength of Basingstoke Neurological and Plastic Surgery Hospital, having been duly sworn, deposes as follows:

I have been employed as regimental accountant at Basingstoke Neurological and Plastic Surgery Hospital since August 1943.

When, early in September, I was making out the financial statement for the canteen for the month of August 1944, I discovered a discrepancy of about £93.

The matter was at once reported to the officer in charge of the canteen, Capt. Hollingworth, who, in turn, reported it to the Commanding Officer. C.R.U. were notified, and a representative from C.R.U. audit board, Lieut. Ward, came here at once. He examined the books, and couldn't find any appreciable difference. Then Regimental Funds Board were notified in turn, and Sgt. Marchant, of that department, came down and did a complete audit, up to and including Sep 11. He found no appreciable difference.

(Continued)

SECOND WITNESS (Continued)
For the Prosecution

At a Court of Inquiry into the matter, convened by the Commanding Officer, I stated that in my opinion, there was an actual shortage of stock or cash. A second Court of Inquiry was convened by H.Q., C.R.U., where I gave the same evidence. This Court ordered a re-check, which took into consideration certain overages which had occurred in previous months, bring the figure down to £52.16.6. Captain Wood of the Regimental Funds Board spent four days here and Sgt.Marchant of the same department spent eight days here, working on a careful breakdown of every commodity handled in the canteen, and in their opinion, and mine, an actual shortage of approximately £52.14.6 exists at the present time.

Owing to the method adopted for handling the Pepsi-Cola bottles, there is sure to be a small overage each month, but the greater part of this will be caught up the following month, except in the case of broken bottles, so that an exact figure is impossible to compute.

The accused declines to cross-examine the second witness for the Prosecution.

(C M Boyes)

THIRD WITNESS
For the Prosecution

B 65803 Pte McArthur, C.F., R.C.A.M.C., presently on the strength of Basingstoke Neurological and Plastic Surgery Hospital, having been duly sworn, deposes as follows:

I am at present employed as assistant steward in the Regimental Canteen at Basingstoke Neurological and Plastic Surgery Hospital.

Q1: How were you appointed to the job?
A1: I was detailed by the R.S.M. to my present duties.

Q2: Just what are your duties?
A2: I assist in the running of the canteen, serving the customers, and keeping the place in order and clean.

Q3: Are there times when you are in sole charge?
A3: Sometimes, about one evening in three, I am on duty alone.

Q4: At such a time would you feel that you are responsible for all the stock and cash on hand?
A4: I am responsible to the extent that I protect it, selling goods at list prices, and receiving the cash for them.

Q5: Are you [illegible] extra pay for these duties?
A5: Yes, sir, £2.10.0 per month.

Q6: In your opinion, and from any instruction on the subject that you may have had, who is the responsible person?
A6: The man in charge is the responsible person.

(Continued)

THIRD WITNESS (Continued)
For the Prosecution

Q7: Who was the man in charge during the summer?
A7: Pte. Quirk was. But in justice all round, I can't see, where there are three men, working at different times, in a place like that, where all the responsibility rests on one pair of shoulders.

The accused declines to cross-examine the third witness for the prosecution.

C A McCauley

FOURTH WITNESS
For the Prosecution

B 102706 Pte. Gauthier, C. P., R.C.A.M.C., presently on the strength of Basingstoke Neurological and Plastic Surgery Hospital, having been duly sworn, deposes as follows:

I am at the present time employed as canteen handy-man.

Q1: What do these duties consist of?
A1: I help with the cleaning, and serving at the counter.

Q2: How did you get the job; that is, who appointed you?
A2: I went to the R.S.M's office, and he took me to the padre, and from there they put me in the canteen.

Q3: Are there times when you are in sole charge?
A3: Yes, sir. Every third night.

Q4: Do you then feel that you are responsible for the stock and cash on hand?
A4: Yes.

Q5: Are you in receipt of extra pay for these duties?
A5: Yes, £8.10.0 per month.

Q6: Who, in your opinion, is the individual responsible for all the stock and cash?
A6: I believe it would be the man in charge. He is responsible for everything.

Q7: During the summer months, who was the man in charge?
A7: Pte. Quirk.

Q8: Do you know if there have been any noticeable shortages since Pte Quirk was removed from the job of canteen steward?
A8: We have a new daily inventory system working now, and if any small error occurs, it will be noticed the next day, and traced down and rectified at once. There have been no large shortages.

The accused declines to cross-examine the fourth witness for the prosecution.

(C P Gauthier)

The accused does not desire to call any witnesses at this time.

The evidence having been concluded, the accused is cautioned as follows:

"Do you wish to give 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."

The accused declines to make any statement or to give evidence upon oath.

P Quirk

(P Quirk)

I

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

(G L Paul) Captain,
Officer Taking Summary.

Dated at Basingstoke, Hampshire, this 8th day of December 1944.

AN EXTRACT FROM THE MINUTES OF THE CANTEEN COMMITTEE
BASINGSTOKE NEUROLOGICAL AND PLASTIC SURGERY HOSPITAL

Sept.1st 1942 1400 hrs.

Meeting in O.C's room. Present: Major Richardson, chairman, Major Raymond, Capt.Hollingworth, Pts. Lafrance and Blight -- also Padres Dunbar and Boulden.

The minutes of the last meeting were read and approved. Father Dunbar reported that a dance had been arranged for Sept 11th.

Major Raymond reported progress in the matter of unit Christmas cards.

The secretary-treasurer reported that some of the work of reconstruction had been completed in the recreation room, but that the stock had still to be moved, and a store room built. The Registrar expressed his willingness to speak to the Engineers on this matter.

The secretary-treasurer reported for August as follows:

Sales for August		£693.15.8
Assets: In bank	£188. 1. 0	
On hand	57.18.11	
Stock	65.	
	£310.19.11	
Liabilities:		
NAAFI (Pepsi a/c)	£137. 9. 6	
Balance	173.10. 5	
		£310.19.11.

Spent on behalf of personnel and patients, £34.6.1. He explained that the estimate of £65 for stock was a temporary and conservative one, the stock-taking not being quite completed. On motion of Major Raymond this partial report was accepted. The President and Major Raymond expressed appreciation of the work of the secretary-treasurer. Major Raymond moved that the committee's appreciation be recorded in the minutes. Seconded and carried.

H/Capt. Hollingworth succeeds Padre Boulden as secretary-treasurer

Some discussion took place as to the payment of some n.c.o. to keep the books. On motion of Padre Boulden, Cpl.Mayo was instructed to keep the books of the canteen for which he will be paid (from the canteen books) the sum of 25$ per day. A suggestion to pay the telephone operator and the postman from the canteen funds, ended in the general expression of the meeting that any such payment would be better made by the Regimental institutes.

The matter of telephones was discussed, and Major Raymond will look into the possibility of providing a telephone in the recreation room.

Radios. Pte Lafrance was asked by the committee to inquire into ways and means of obtaining radios for the mens' barrack rooms.

The meeting adjourned.

(Signed)
R.C. Montgomery, Lt.Col.

(Signed)
C.H. Boulden,
Sec.Treas. (Chaplain.

CERTIFIED TRUE COPY

(G L Paul) Captain,
Officer taking summary.

EXHIBIT "A"

AN EXTRACT FROM THE MINUTES OF THE CANTEEN COMMITTEE
BASINGSTOKE NEUROLOGICAL & PLASTIC SURGERY HOSPITAL.

The regular monthly meeting of the Men's canteen committee was held in the office of the Commanding Officer on Tuesday December 21st 43 at 1415 hours. Those present included Major Eaglesham, chairman, Colonel R.M.Harvie, Capt.H.Johnston, Ptes. Sloan, Campbell, and the secretary. Minutes of the previous meeting were read and approved. Capt. Johnston was welcomed as a new member of the committee.

The secretary then presented a financial statement for Nov 43 which showed an operating profit of £57.14.5. It was moved by Pte Sloan, seconded by Capt.Johnston, that in the event of Cpl.Papineau being transferred, Pte.Quirk be appointed Canteen Steward, and that his salary be £4.10.0 monthly. Should his work prove entirely satisfactory, the question of an increase in salary will be condidered later. Carried.

The President and Secretary were authorized to pay accounts for beer for patients and personnel for Christmas. There being no further business, the meeting adjourned on the motion of Ptes Campbell and Sloan.

(Signed)	(Signed)	(Signed)
Stewart Gordon,	R.M. Harvie,	W.D.G.Hollingworth/Capt.
Lt.Col.	Colonel.	Sec.Treas.

CERTIFIED TRUE COPY

(G L Paul) Captain,
Officer Taking Summary.

Exhibit "B"

APPENDIX "C"

The Prosecution intends to call, as a witness for the Prosecution, Captain W. Wood, presently on the strength of the Regimental Funds Board, C.M.H.Q.

The following is an abstract of his proposed evidence:

"I am a Chartered Accountant by profession. Together with D 83037 Sgt Marchant, P.R., of R.F.B., I visited Basingstoke Neurological and Plastic Surgery Hospital, and we made a careful study of the books of the Canteen, particularly for the period 1 July to 11 Sep 44.

In my opinion these books disclose that an actual shaorage of £52.14.6 exixts."

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

(G L Paul) Captain
Officer Taking Summary.

The Prosecution intends to call, as a witness for the Prosecution, D 83037 Sgt Marchant, P.R., presently on the strength of the Regimental Funds Board, C.M.H.Q.

The following is an abstract of his proposed evidence:

"I am an accountant, on the strength of R.F.B. I was detailed to proceed to Basingstoke Neurological and Plastic Surgery Hospital, to make a complete audit of the books of the Canteen, with particular attention to the period 1 July to the date I arrived there, 11 Sep 44. Cash on hand was verified by actual count and reconciled with the cash book balance. The balance in the Bank was reconciled with the cash book. Inventories of merchandise and containers were taken. Accounts payable were verified with creditor's statements and invoices. A complete audit of the books and records was made.

In my opinion these books and records show that an actual shortage of £52.14.6 exixts."

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

(G L Paul) Captain,
Officer Taking Summary.

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

(F Quirk)

(In accordance with R.P.76) 9 Dec 44.

47-33

Pte Quissey E.

SCHEDULE.

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

Accused: K 98149 Private Ernest Quissy

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
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 482 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of Kit see RP 44 fn 6.)

At present under sentence for [illegible] beginning on (date) [illegible] (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 32 days, of which Nil 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 nine (9) months

(Sgd) [illegible] 26 Jan 45 [illegible] Capt
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(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) 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 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 56. 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 but commute the sentence to read "to undergo detention for ninety days and to forfeit all pay for a period of ninety days and to complete the sentence remaining unexpired."

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

(Sgd) Cordner A Sinclair
Brig.
Date 2 Feb 45 Commanding D.D.M.S., 1 Cdn Corps.
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
K-98149 Pte. Quissy. E	5 Feb 45	G.P. Davidson (A.E. Davidson), Capt. & Adjt 4 Cdn Rft Bn - 1 Cdn Base Rft Gp - CMF

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

REGISTERED 2 APR 1945

RECORDED AT CMHQ IN A 168 HZ-33

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig. C.A. Sinclair Comd D.D.M.S. 1 Cdn Corps dated 25 Jan 45

ACCUSED.

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

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

Number	Rank	Unit, Regt'l No., Appmt, A/R or A/Appmt.	Full Christian Names	Surname
K 98149	Pte	4 Cdn Rft Bn	Ernest	Quissy

PROCEEDINGS REVIEWED
Date 27 Mar 45
Cdn Corps

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 26 Jan 1945

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns, Rls. 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 485, for oaths and instrs on how to record address, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, 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(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is [illegible] amenable to military law, and each charge discloses an offence.(4)
(1. As to use of Summary of Evidence see RP 17 fn 2. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 22, 24.)

A3. The Court is opened. The accused [illegible] brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is fit to undergo trial by court-martial.(2) ~~The Prosecutor informs the Court since accused elected to be tried by court-martial instead of being dealt with summarily by the CO,(1)~~
(1. ~~KR Can 555.~~ 2. AA 46(E), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ [illegible] ~~an interpreter?~~ Ans ~~No~~ [illegible]
~~The Interpreter is sworn.~~(1) Do you object to Cpl J. Roy PA as shorthand writer? Ans No Sir
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 71, RP 35, 71, 18, MML p 742.)

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

President	Capt	A Arnaldi	1 Cdn Base Rft Gp
Member	Capt	R S Inkster	11 Cdn Base Rft Gp
Member	Lieut	D Munro	14 Cdn Base Rft Gp
Judge-Advocate			
Prosecutor	Capt	R R Brown	4 Cdn Rft Bn
Defending Offr	Lieut	E M Ross	4 Cdn Rft Bn

Questions by President: Is the Prosecutor a lawyer? Ans Yes. 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 Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (E) and fn 2 were not followed. See DI p 3.)

A8. The accused K 98149 Pte Quissy E before arraignment make(s) (no) plea. (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in 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 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 fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is [illegible] arraigned (separately) on all charges in the charge sheet.(1) The accused does (may) 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 30, 31, 2. 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 485 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court [illegible] considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 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 thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85 ; 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 Pros 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.(5)

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

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

(1. *Court may be cleared 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 38(B). If any plea(s) is (are) changed, see Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex C, 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 paras 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) (B).*)

C2. The charges on which accused pleaded NOT 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 thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate 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), 80(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 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 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

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

(1. *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(e).*)

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

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) 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) (6), 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 (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(1) (g) (h), and (ii) they purport to refer to (a) soldier bearing the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex respectively.(3)

(1. *MFB 353 or AFB 296.* 2. *MFM 6.* 3. *RP 46, 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 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)

(1. *AA 54(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 also JA, if any.(2)

(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 its proviso, 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, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 1203. MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 40 (2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. 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.

CHARGE SHEET

THE ACCUSED, NUMBER K98149 PRIVATE ERNEST QUISSY OF 1 CONV DEPOT RCAMC, A SOLDIER OF THE CANADIAN ARMY OVERSEAS, ALLIED ARMIES IN ITALY, IS CHARGED WITH:

1ST CHARGE
A A Sec 15 (1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Italy, absented himself without leave from 0800 hrs 13 Dec 44 until surrendering himself at approx 0920 hrs 11 Jan 45 (29 days 1 hr 20 mins).

In the Field
22 Jan 45

(W A Reed) Captain
Commanding
Malaria Wing 1 Conv Depot RCAMC - CMF

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(Gordon A.Sinclair) Brigadier
D.D.M.S. 1 Cdn Corps

In the Field,
1 JAN 45

Accpt

I am unable to appoint an officer of Field Rank as president of this Field General Court Martial as, due to the exigencies of the service, no offrs of that rank are at present available at 4 Cdn Rft Bn to so act.

(Gordon A. Sinclair) Brigadier
DDMS 1 Cdn Corps
Convening Officer.

In the Field
25 Jan 45.

FIELD GENERAL COURT-MARTIAL

CFAES (In lieu of AFAES) 40/PAM/1007 [2008]

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate 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 parts 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/apprat, 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.
K98149	Private	Ernest	Quissy	1 Conv Depot RCAMC

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) 22 Jan 45 endorsed by me, ~~[illegible]~~, "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; ~~[illegible]~~
(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 appt a Fd Offr as president for the reasons I have attached hereto.
~~I am unable to appt 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. ~~[illegible]~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.		(Must be named. RP 106.)	Unit.
Capt	A Arnoldi		4 Cdn Rft Bn

MEMBERS.

Rank.		(Named or detailed. RP 106.)	Unit.
Capt	R S Inkster		4 Cdn Rft Bn
Lieut	D Munro		4 Cdn Rft Bn

WAITING MEMBER.

Rank.		(Named or detailed, if any. RP 106.)	Unit.
Lieut	A Boldue		4 Cdn Rft Bn

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in Italy (Country.)

Dat. 25 Jan 45

(Gordon A. Sinclair) Brigadier
(Signed personally. RP 105 fn 2.) (Rank.)

~~[illegible]~~ DDMS 1 Cdn Corps
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) Para 557

JAN 26th 1945

I hereby certify that I have this morning examined No K98149

PTE QUISSY E on strength 4 Cdn

Rft Bn, 1 C B R Gp, and in my opinion he is FIT/~~UNFIT~~ to undergo

trial by Court Martial

Capt

Medical Officer 4 Cdn Rft Bn

PLEA IN MITIGATION IN THE CASE OF K98149 PRIVATE QUISSY E

Mr President and Members of the Court, Gentlemen; the accused, K98149 Private Quissy, E, enlisted in July 10, 1940. On July 13, 1943 landed in Sicily with the Seaforth of C, from then on he conducted himself as a soldier and fought up to the Hitler Line and Gothic Line and across the Sangro River where he was wounded. He was sent to hospital and when he was sufficiently recovered sent to Conv Depot. Conv Depot, was put on Staff. Exactly how long we don't know, about two months. Them before he was going to be moved he went absent without leave. This man, the accused, my client, has done his soldierly duties while in the field, I would say he kept going and did what was expected. He is a fairly tall chap and fairly clean cut. After he had been in a soft job for a while a few things started framing. He definitely went AWL from Conv Camp and not from his unit therefore, I ask the Court, seeing that this man done his job with the Seaforth of C they be lenient, he can still do his job I am sure if he was with his regiment.

A copy

Exhibit 'C'

SUMMARY OF EVIDENCE IN THE CASE OF

K.98149 Pte. QUIGLEY E.

BY DIRECTION OF THE COMMANDING OFFICER EVIDENCE IS TAKEN ON OATH

1st Witness

Capt. W.A. REED C.C. Malaria Wing 1 Conv Depot RCAMC CMF being duly sworn states:

I am Capt W.A. REED C.C. Malaria Wing 1 Conv Depot RCAMC CMF. I produce a certified true copy of the Declaration of a Court of Enquiry purporting to relate to the accused and showing that K.98149 Pte. QUIGLEY, E. illegally absented Himself without leave from 0800 hrs on the 15th day of December 1944, and was still absent on 8th day of Jan 1945. Produced, marked exhibit "A" shown to the accused and attached hereto.

I further produce a certificate in accordance with A.A. 153 (3)(j) purporting to relate to the accused and showing that K.98149 Pte. QUIGLEY E. surrendered himself to D.98105 C.S.M. Lecompeant R.A. in the field at approx 0820 hrs 11 Jan 45. Produced marked exhibit "B" shown to the accused and attached hereto.

W. A. Reed Capt

The accused declines to question this witness.

Question to the accused

Do you wish to give evidence yourself or to make a statement on oath. You are not obliged to say anything, but anything you do say will be taken down in writing and may be produced in evidence.

Answer by the accused

I have nothing to say at this time.

I certify that A.A. 4 (c), (d), (e) & (f) have been complied with and that this summary was taken down by me in the presence and hearing of the accused.

H.S. Hopper

(H.S. Hopper, Capt.)
Officer taking the Summary.

Accept

Exhibit "A"

Army Form B 115

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 MALARIA WING, 1 CCD. RCAMC. on the FIFTH day of January 19 45 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. K 90149 PRIVATE QUIGLEY E. (SEAT OF C)

DECLARATION.

The Court declare that No. K 90149 PRIVATE QUIGLEY E. of the Seat of C Regt illegally absented himself without leave from 0900 hrs at MALARIA WING 1 CCD. RCAMC. on the Thirteenth day of December 1944, that he is still so absent, and that on the 5th Jan 45, he was deficient, and that he is still deficient of the following articles:-

NIL

Accept

Names of President and Members - President Major J R Baker RCAMC

Members Capt L J Saunders CDC

Capt J Pearce RCAMC.

Signature of Commanding Officer W.A. Reed Capt

CERTIFIED TRUE COPY. (W.A. REED) Capt, MALARIA [illegible] CCC

W.A. Reed Capt

(W.A. REED) Capt, CCC.

Signature of Officer having custody of the Original Record.

Exhibit B

Under Army Reg 345 (2)(1)

CERTIFICATE OF SURRENDER

CERTIFICATE OF SURRENDER

Under Army Reg 345 (2)(1)

I, the undersigned certify that No. K 98149 Rank PVT

Name SUTSKY E of HEADQUTR WINGS OF CAM

surrendered himself to No. O 98193 Rank COL Name LUFTWAFFAN T.A.

of MAL WING - 1 GCD at MAL WING 1 GCD at 0820 hrs

11 Jan 45 1945, as a soldier absent without le ave/deserter.

Accpt

(Rank, Unit) Capt 14

Signature of officer to this whose custody the soldier was taken upon surrender.

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
K98149	Private	Quissy, Ernest	1 Conv Depot RCAMC

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 :—

	* Within last 12 months.	*Since Enlistment.
For ...NO MEN OF [illegible]	times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct

or

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

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 from 0920 hrs 11 Jan 45 days in civil custody, and 15 days in military custody, making a total of 15 days, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is 26 yrs

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ ~~enlistment paper~~ is 10 Jul 40

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

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

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

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). N/A

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

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

[illegible]

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.

No. K98149 Rank Private Name Quiney, Ernest of 1 Conv Depot Regiment (or as the case may be).

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

Description of court by which tried, or status of officer dispensing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, 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.
		NO MFM 6 AVAILABLE		

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 22nd day of January 1945

(W a Reed) Captain,
Commanding
Malaria Wing 1 Conv Depot RCAMC - CMF

(INSTRUCTION—If any entries are made in this schedule after the prisoner has been finally tried by court martial, the officer making the entries must sign his name at the end of each entry.)

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

Date of Promotion.

To the rank of ..... years ..... months

To the rank of ..... years ..... months

To the rank of ..... years ..... months

RECEIPT FOR CHARGE SHEET & SUMMARY OF EVIDENCE

I hereby certify that I have this date 25 Jan 1945 received from 4 Cdn Rft Bn, 1 C B R Gp, 1 copy of Charge Sheet and Summary of Evidence referring to charge (s) of AWL AA 15(1) for which I was remanded for Court Martial.

E Lucier
(Sig of Accused)

REQUEST FOR DEFENDING OFFICER

I hereby request that Lieut I M Ross if available, act in my defence. If this officer is not available I request that the Commanding Officer of 4 Cdn Rft Bn, 1 C B R Gp appoint an officer to act in my behalf.

E Lucier
(Sig of Accused)

Pursuant to Chap V Sec V Sub Sec 75 of MML, I hereby certify that I have been duly warned that the Prosecutor is an officer possessing legal qualifications.

E Lucier
(Sig of Accused)

Cdf

COUNTER NUMBER 465571

HOUR 1350

OPERATOR'S INITIALS DG

RELIEVING OPERATOR _____

Affidavit

PROVINCE OF ONTARIO
COUNTY OF CARLETON
TO WIT:

I, Ora Angus of the City of Ottawa, in the County of Carleton, an employee of the Department of National Defence, make oath and say:

1. THAT I am presently employed as a camera operator making microphotographic copies of Departmental documents for the purpose of providing a permanent record of same.

2. THAT on the date indicated therein I did make microphotographic copies of files listed in Appendix "A" hereto and of all documents contained thereon.

3. THAT the said microphotographic copies may be identified from the indexing data and the job and reel numbers contained in Appendix "A".

SWORN before me at the City of Ottawa, in the County of Carleton, this day of A.D. 19

CAMERA OPERATOR

A NOTARY PUBLIC

Dated DEC. 3 19 52

APPENDIX "A" TO THE AFFIDAVIT

CAMERA OPERATOR'S REPORT

JOB NO. 44 REEL NO. 58

BOOK NO. 13 13-4

PRODUCTION DATA

INDEXING DATA 44-808

	DATE	HOUR
STARTED		
FINISHED		
TOTAL NO. OF HOURS		45 MIN.
TOTAL No. OF IMAGES		551

BEGINS WITH GUENNEVILLE L. QUINN E.J.

1.

2.

3.

ENDS WITH QUINN J.J. QUINSEY E.

J.B.

END

SECOND

SIDE

REEL
NO.
44.80